

## **FOREWORD**

The Office of Justice Programs (OJP) provides Federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist crime victims. The Office of Justice Program's Comptroller is the principle financial advisor to the Assistant Attorney General for OJP. The Office of the Comptroller (OC) provides policy guidance, control, and support services to OJP's Program Offices and Bureaus in accounting and the financial management of grants. In addition, OC also provides the following services: (1) technical assistance to OJP grantees; (2) financial monitoring of grantees; and (3) audit tracking and audit resolution Department of Justice-wide.

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# PART I -- GENERAL INFORMATION

## Chapter 1: Users

This document is provided for the use of all recipients and their subrecipients of Federal grant programs administered by the Office of Justice Programs (OJP). This Guide is to serve as the primary reference for financial management and grants administration. Specific organizations and individuals which are to use this Guide include:

**Direct Recipients.** Block, formula, and discretionary recipients shall adhere to the provisions of this Guide. Programmatic and technical requirements for block, formula, and discretionary recipients are contained in the program guidelines.

**Subrecipients.** Units of government and other organizations receiving Federal financial assistance from the State shall adhere to applicable State laws and procedures. The circulars and government-wide common rules specific to that organization-type should also apply.

**Individuals.** Individuals from the above organizations who may use this Guide include: administrators, financial management specialists, grants management specialists, accountants, and auditors. These individuals are to use the Guide as their financial policy reference in executing their duties under agency-funded programs and projects. Additionally, the document is structured to serve as a training manual for new employees.

**Contractors.** This Guide is **not** for the direct use of contractors. However, direct recipients should ensure that monitoring of organizations under contract to them is performed in a manner that will ensure compliance with their overall financial management requirements.



## NOTES

## Chapter 2: Circulars and Common Rules

This Guide incorporates by reference the provisions of the Office of Management and Budget (OMB) circulars and government-wide common rules applicable to grants and cooperative agreements. These circulars and common rules include the following:

<b>OMB CIRCULARS:</b>	
<b>Administrative Requirements:</b>	
OMB Circular A-102	"Grants and Cooperative Agreements with State and Local Governments," dated March 3, 1988.
OMB Circular A-110	"Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," dated November 29, 1993 (codified at 28 CFR Part 70).
<b>Cost Principles:</b>	
OMB Circular A-21	"Cost Principles for Educational Institutions" (codified at 28 CFR Part 66, by reference).
OMB Circular A-87	"Cost Principles for State, Local, and Indian Tribal Governments," dated May 17, 1995 (codified at 28 CFR Part 66, by reference).
OMB Circular A-122	"Cost Principles for Nonprofit Organizations," dated October 6, 1995 (codified at 28 CFR Part 66, by reference).
<b>Audit Requirements:</b>	
OMB Circular A-128	"Audits of State and Local Governments," dated April 12, 1985.
OMB Circular A-133	"Audits of Institutions of Higher Education and Other Nonprofit Institutions," dated April 22, 1996.
<b>GOVERNMENT-WIDE COMMON RULES:</b>	
<p><b>"Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Units of Governments,"</b> dated March 11, 1988 (codified at 28 CFR Part 66). (Grants Management Common Rule for State and Local Units of Governments.)</p> <p><b>"Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-free Workplace (Grants)"</b> (codified at 28 CFR Part 67).</p> <p><b>"New Restrictions on Lobbying"</b> (codified at 28 CFR Part 69).</p>	

## NOTES

### Chapter 3: Conflicts of Interest

Personnel and other officials connected with agency-funded programs shall adhere to the following requirements:

**Advice.** No official or employee of a State or unit of local government or a non-governmental recipient/subrecipient shall participate personally through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, award, cooperative agreement, claim, controversy, or other particular matter in which award funds (including program income or other funds generated by Federally-funded activities) are used, where to his/her knowledge, he/she or his/her immediate family, partners, organization other than a public agency in which he/she is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment has a financial interest or less than an arms-length transaction.

**Appearance.** In the use of agency project funds, officials or employees of State or local units of government and non-governmental recipient/subrecipients shall avoid any action which might result in, or create the appearance of:

- Using his or her official position for private gain;
- Giving preferential treatment to any person;
- Losing complete independence or impartiality;
- Making an official decision outside official channels; or
- Affecting adversely the confidence of the public in the integrity of the government or the program.

## NOTES

## PART II -- PRE-AWARD REQUIREMENTS

### Chapter 1: Application Process

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#### Highlights of Chapter:

- ◆ Eligible Recipients
- ◆ Program Announcements
- ◆ Intergovernmental Review
- ◆ Application Review
- ◆ Federal Debt (OMB Circular A-129)
- ◆ Financial Analysis
- ◆ Debarment and Suspension Certification
- ◆ Drug-Free Workplace Certification
- ◆ Lobbying Certification
- ◆ Policy on Making Awards

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**Eligible Recipients.** Block and formula grants may be awarded to States or units of local government and non-profit organizations, based upon statutory authority. (See appropriate program guidelines for eligibility.) Discretionary awards may be awarded to States, units of local government, Indian tribes and tribal organizations, individuals, educational institutions, hospitals, and private non-profit and private commercial organizations (if legislation allows) at the discretion of the awarding agency.

**Program Announcements.** Programmatic and technical requirements relating to block and formula grant applications are contained in block and formula grant guidelines available from the awarding agency. The awarding agency announces the programs which it has developed for funding under its discretionary award program in the FEDERAL REGISTER. A compilation of available assistance programs may also be found in the Catalog of Federal Domestic Assistance (CFDA) published by the U. S. General Services Administration.

**Intergovernmental Review.** If the State has established a process for the review of Federal programs and activities eligible under Executive Order 12372 and a particular program has been selected for review by the State, applicants for the program must submit a copy of their application to the State "single point of contact" (SPOC) prior to or at the same time that the application is submitted to the awarding agency. Additional information concerning this requirement is contained in the individual program announcements.

**Note:** The awarding agency is required to assure that awards meet certain legislative, regulatory, and administrative requirements. This agency's policy is to provide assurance that awards are only for allowable, allocable, fair, and reasonable costs. Awards must be made only to eligible recipients. Applicants must possess the responsibility, financial management, fiscal integrity, and financial capability necessary to adequately and appropriately administer Federal funds. The awarding agency follows the requirements stipulated in the administrative requirements for grants and agreements that are codified at 28 CFR Part 66 and 28 CFR Part 70. In complying with these requirements, the awarding agency will perform the following.

**Application Review.** An examination of the Application for Federal Assistance (SF 424) is conducted to determine:

1. **Type of Applicant.** Such as new applicant (organizations that have not had an active award within the last two fiscal years, not-for-profit (NPO), for-profit, State, or local unit of government, etc.).
2. **High Risk Applicant.** The awarding agency will obtain credit reports before making awards to new or high risk recipients (except State and local governments, including public colleges, universities, hospitals, or Federally-recognized Indian tribal governments). Also, the awarding agency shall obtain credit reports on any applicant when there is reason to believe that performance is substandard or there is evidence of financial irregularities. When an applicant is considered high risk by an agency, then all other like agencies must also consider the applicant high risk. For example: If BJA were to consider an applicant high risk and require progress reports be submitted more frequently, then other agencies, such as OJJDP or OVC, must also consider the applicant high risk.
3. **Accuracy of Taxpayer Identification Number (TIN).** This number includes the social security numbers (SSN) for individuals or employer identification numbers (EIN)<sup>1</sup> for business entities, which are used to identify our customers.
4. **Applicant Federal Debt.** The SF 424 includes a question about whether there is Federal debt. That question applies to the organization requesting the financial assistance, not the person who signs the application as the authorized representative of the organization. Categories of debt include delinquent audit disallowances, loans, and taxes.
5. **Financial Capability.** When the applicant is a non-governmental entity and if there has been no recent history with OJP, a financial capability questionnaire will be provided to the applicant. This questionnaire should be completed by an independent auditor and submitted to the awarding agency before the award is made.

**Federal Debt (OMB Circular A-129).** The awarding agency holds recipients accountable for any overpayment, audit disallowances, or any other breach of award that results in a debt owed to the Federal government. The awarding agency shall apply interest, penalties, and administrative costs to a delinquent debt owed by a debtor pursuant to the Federal Claims Collection Standards and OMB Circular A-129.

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<sup>1</sup> The awarding agency uses the SSN or EIN to track awards. There is no relationship to the Social Security Administration or the Internal Revenue Service. In certain circumstances, an arbitrary EIN will be assigned, e.g., awards made directly to subunits of government which need an identifier distinct from that of their parent agency.

**Financial Analysis.** The analysis of project applications includes:

1. Performing a cost analysis of each project application considered for funding by the awarding agency. Cost analysis includes obtaining cost breakdowns, verifying cost data, evaluating specific elements of costs, and examining data to determine the necessity, reasonableness, allowability, allocability, and appropriateness of the proposed cost. The form and extent of such an analysis will be determined by the awarding agency.
2. Accepting current Department of Justice-approved indirect cost rates or rates approved by other Federal agencies. If an applicant does not have an approved rate, they must submit an indirect cost proposal to their cognizant Federal agency.
3. Determining the adequacy of the applicant's accounting system and operations to ensure that Federal funds, if awarded, will be expended in a judicious manner. Where a non-governmental applicant (except public colleges, universities, and hospitals) has never received an award, the organization's accounting system should be reviewed prior to award or within a reasonable time thereafter to assure its adequacy and acceptability. This review should also apply where known financial or management deficiencies exist. The results of the review will determine the action to be taken by the awarding agency with regard to the award. Where an applicant has had prior awards, outstanding audit issues and delinquent audit, financial, or progress reports must be addressed prior to awarding additional funds.
4. Reviewing credit reports, delinquency status of Federal debt, and other prescreening information. The awarding agency will take such information into account when considering the application for award.

**Debarment and Suspension Certification.** This certification must be completed prior to recommendation for or against an award. The government-wide common rule for debarment and suspension and drug-free workplace, 28 CFR Part 67, provides guidance on requirements that recipients shall meet in order to receive Federal funds.

1. Title 28 of the Code of Federal Regulations (CFR), Part 67, provides that executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and non-financial assistance and benefits. Debarment or suspension of a participant in a program by one agency has government-wide effect. It is the policy of the Federal government to conduct business only with responsible persons, and these guidelines will assist agencies in carrying out this policy.
2. Certification Regarding Debarment, Suspension, Ineligibility and Other Responsibility Matters -- Primary Covered Transactions (OJP Form 4061/2 or like form). Certifications must be completed and submitted by recipients of discretionary awards to the awarding agency's program offices during the application stage. Block/formula recipients are exempt from submission of this certification but are responsible for monitoring subrecipient submissions of the lower tier certification (OJP Form 4061/1) and for maintaining them at the State level.



3. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (OJP Form 4061/1 or like form). This requirement includes persons, corporations, etc. who have critical influence on or substantive control over the award. The direct recipient will be responsible for monitoring the submission and maintaining the official subrecipient certifications.

To summarize, the debarment and suspension common rule requires that both recipients and their subrecipients certify they will comply with the debarment and suspension common rule. Subcontractors are not required to certify if their subaward is less than \$100,000.

**Drug-Free Workplace Certification.** This certification must be submitted prior to recommendation for or against an award. The government-wide common rule for debarment and suspension and drug-free workplace, 28 CFR Part 67, provides guidance on requirements that recipients shall meet in order to receive Federal funds.

Subpart F of 28 CFR Part 67 implements the statutory requirements of the Drug-Free Workplace Act of 1989. All recipients receiving awards from any Federal agency shall certify to that agency that they will maintain a drug-free workplace, or, in the case of a recipient who is an individual, certify to the agency that his or her conduct of award activity will be drug-free. If a recipient makes a false certification, the recipient is subject to suspension, termination, and debarment.

1. The State agency responsible for administering the block/formula award shall submit a drug-free workplace certification to the awarding agency and shall be responsible for obtaining a drug-free workplace certification from each State agency that is sub-awarded funds. Subrecipients who are not State agencies are not required to submit a drug-free workplace certification.
2. A recipient is required to make the required certification for each award. The one exception to this rule is that a recipient who is a State, including a State agency, may elect to make a single annual certification to each awarding agency from which it obtains awards, rather than making a separate certification for each award or workplace. Only one such annual certification need be made to each Federal agency which will cover all of that State agency's workplaces.
3. There are two different certifications: one for individuals and one for organizations. The individual recipient certifies that he or she will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting any activity with the award. The organizational recipient certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

- b. Establishing a drug-free awareness program to inform employees about:
  - (1) The dangers of drug abuse in the workplace;
  - (2) The recipient's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- c. Making it a requirement that each employee to be engaged in the performance of the award be given a copy of the employer's statement about drugs in the workplace.
- d. Notifying the employee that, as a condition of employment under the award, the employee will:
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction.
- e. Notifying the awarding agency within ten days after receiving notice from an employee or otherwise receiving actual notice of such conviction.
- f. Taking one of the following actions, within 30 days of receiving notice, with respect to any employee who is so convicted:
  - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- g. Making a good faith effort to continue to maintain a drug-free workplace.

To summarize, the drug-free workplace common rule requires that **ONLY** direct recipients of Federal awards certify they will comply with the drug-free workplace common rule. There is no dollar threshold for certification.

**Lobbying Certification.** This certification must be submitted prior to recommendation for or against an award. The Department of Justice's (DOJ) codification of the government-wide

common rule for restrictions on lobbying, 28 CFR Part 69, provides guidance on requirements that recipients shall meet in order to receive Federal funds.

The following restrictions on lobbying are applicable to all recipients and subrecipients. Interim Final Guidance for New Restrictions on Lobbying was published in the Federal Register in December 1989. The Lobbying Disclosure Act of 1995 included amendments that impact the guidance provided in 1989. The restrictions on lobbying are as follows:

1. No Federally-appropriated funds may be expended by the recipient of a Federal award, cooperative agreement, or contract to pay a person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal award, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, award, or cooperative agreement.
2. Each person who requests or receives from an agency an initial Federal contract, award, or cooperative agreement (including subcontracts, subawards, and contracts under cooperative agreements) exceeding \$100,000 shall file with that agency a certification regarding lobbying. The certification shall be submitted to the agency making the award. Each person is certifying that:
  - a. They have not made, and will not make, any payment for a lobbying activity.
  - b. If any non-Federal funds have been paid or will be paid to any person, they will complete and submit a "Disclosure of Lobbying Activities" form (Disclosure Form).
  - c. The language of this certification will be included in their award documents for all subawards at all tiers (including subcontracts, subawards and contracts under awards, and cooperative agreements), and all subrecipients shall certify and disclose accordingly.
  - d. Each person, if applicable, shall submit the Disclosure Form to the agency making their award. The recipient or subrecipient is responsible for reporting lobbying activities of its employees if the employee's tenure is less than 130 working days within one year immediately preceding the date of the recipient's or subrecipient's application or proposal submission.
  - e. A subrecipient, who requests or receives Federal funds exceeding \$100,000, shall be required to file with the agency making their award a certification and a Disclosure Form, if applicable. All certifications shall be maintained by the agency making the award and all Disclosure Forms shall be forwarded from tier to tier until received by the Federal agency making the award. That agency shall forward all Disclosure Forms to the awarding agency. The Disclosure Form shall contain the following information:

- (1) Name and address of reporting entity;
  - (2) Federal program name;
  - (3) Federal award number;
  - (4) Federal award amount; and
  - (5) Name and address of lobbying registrant.
3. The above requirements DO NOT apply to Federally-recognized Indian tribes, or tribal organizations, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
4. Each person shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any Disclosure Form previously filed by such persons. Examples of such events are:
  - a. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action;
  - b. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
  - c. A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
5. Penalties and enforcement of lobbying restrictions shall be as follows:
  - a. Any person who makes an expenditure prohibited by the New Restrictions on Lobbying shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
  - b. Any person who fails to file or amend the Disclosure Form to be filed or amended, if required, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

To summarize, the common rule for lobbying requires certification that recipients and their subrecipients certify they will comply with the lobbying common rule. This requirement is only for awards made exceeding \$100,000.

To comply with the certification requirements provided in the common rules for lobbying, drug-free workplace, and suspension and debarment (so that recipients do not have to sign three certifications), we have combined them into OJP Form 4061/6, entitled "Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements."

**Policy on Making Awards.** This agency will not make an award to any applicant who has an overdue audit report or an open audit report where the recipient has not attempted to respond or has taken no action to resolve findings. Every applicant for funding is on notice that, unless they are in compliance with the audit requirements, their application may be rejected. Exceptions to this policy are by recommendation of the Comptroller, OJP, to the awarding agency.

## NOTES

## NOTES

## Chapter 2: Conditions of Award and Acceptance

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### **Highlights** of Chapter:

- ◆ Award Document
- ◆ Acceptance Procedures
- ◆ Special Conditions
- ◆ Federal Obligation Process

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**Award Document.** After completion of the internal review process, award applications designated for approval are formally awarded in the form of an issuance of an Award Document. This document includes:

- Name of recipient and subrecipient (if applicable);
- Award period;
- Type of Federal funds;
- Amount of Federal funds;
- Award number; and
- Special conditions, as appropriate, that the recipient/subrecipient must meet if the award is accepted.

This award notification is applicable to all award applications approved for award. Correspondence concerning the award should refer to the designated award number shown on the Award Document.

**Acceptance Procedures.** The Award Document constitutes the operative document obligating and reserving Federal funds for use by the recipient in execution of the program or project covered by the award. Such obligation may be terminated without further cause if the recipient fails to affirm its timely utilization of the award by signing both the award document and special conditions and returning them to the awarding agency **WITHIN 45 DAYS** from the date of award. No Federal funds will be disbursed to the recipient until the signed acceptance has been received by the awarding agency.

**Special Conditions** include terms and conditions of the award. They may include special provisions for audit, conferences, and disposition of program income.

**All Awards** will include special conditions concerning: (1) compliance with this guide; (2) compliance with the audit requirements; and (3) the submission of an Equal Employment Opportunity Plan. Failure to do so may result in the suspension of funding.



Also, the recipient, upon accepting the award, agrees to complete and keep on file, as appropriate, the Immigration and Naturalization Service Employment Eligibility Verification form (I-9). This form is to be used by recipients of Federal funds to verify that persons are eligible to work in the United States.

**Cancellation for Block and Formula Subawards.** The State must condition each block and formula subaward to include the following cancellation procedures.

1. **Commencement Within 60 Days.** If a project is not operational within 60 days of the original start date of the award period, the subrecipient must report by letter to the State the steps taken to initiate the project, the reasons for delay, and the expected start date.
2. **Operational Within 90 Days.** If a project is not operational within 90 days of the original start date of the award period, the subrecipient must submit a second statement to the State explaining the implementation delay. Upon receipt of the 90-day letter, the State may cancel the project and request the Federal agency approval to redistribute the funds to other project areas. The State may also, where extenuating circumstances warrant, extend the implementation date of the project past the 90-day period. When this occurs, the appropriate subaward files and records must so note the extension.

**Federal Obligation Process.** After an award has been signed by the Federal awarding agency, the amount of the award is considered an obligation of the Federal government and is recorded as such in its accounting system. Appropriated funds are thereby reserved against the award until all monies are expended by the recipient and subrecipient or, in the case of non-utilization of funds within statutory or other time limits, appropriated funds revert to the awarding agency through deobligation of the unused balance.

## NOTES

## NOTES

## Chapter 3: Standards for Financial Management Systems

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### **Highlights** of Chapter:

- ◆ Accounting System
- ◆ Total Cost Budgeting and Accounting
- ◆ Commingling of Funds
- ◆ Recipient and Subrecipient Accounting Responsibilities
- ◆ Cash Depositories
- ◆ Supplanting

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All recipients are required to establish and maintain accounting systems and financial records to accurately account for funds awarded to them. These records shall include both Federal funds and all matching funds of State, local, and private organizations, when applicable.

State recipients shall expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Subrecipients of States shall follow the financial management requirements imposed on them by States. (State and local procedures must ensure subrecipients comply with the financial management standards found at 28 CFR Parts 66 and 70.)

**Accounting System.** The recipient is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself and for ensuring that an adequate system exists for each of its subrecipients. An acceptable and adequate accounting system:

1. Presents and classifies projected historical cost of the grant as required for budgetary and evaluation purposes;
2. Provides cost and property control to ensure optimal use of funds;
3. Controls funds and other resources to assure that the expenditure of funds and use of property are in conformance with any general or special conditions that apply to the recipient;
4. Meets the prescribed requirements for periodic financial reporting of operations; and
5. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

Funds may be awarded as formula/block or discretionary awards. The various financial requirements and formulas of the awarding agency's programs, as well as the need for recipients to separately account for individual awards, require a special program account structure extending beyond normal classification by type of receipts, expenditures, assets, and liabilities.

1. **Block and Formula Awards.** To properly account for block and formula awards, the State should establish and maintain program accounts which will enable separate identification and accounting for:
  - a. Formula and block grant funds expended through programs of local government; and
  - b. Formula funds utilized to develop a State plan and to pay that portion of expenditures which are necessary for administration.
2. **Discretionary Awards.** To properly account for discretionary awards, all recipients should establish and maintain program accounts which will enable, on an individual basis, separate identification and accounting for:
  - a. Receipt and disposition of all funds (including project income);
  - b. Funds applied to each budget category included within the approved award;
  - c. Expenditures governed by any special and general provisions; and
  - d. Non-Federal matching contribution, if required.

**Total Cost Budgeting and Accounting.** Accounting for all funds awarded by the Federal agency shall be structured and executed on a "total program cost" basis. That is, total program costs, including Federal funds, State and local matching shares, and any other fund sources included in the approved project budget or received as program income shall be the foundation for fiscal administration and accounting. Applications for funding and financial reports require budget and cost estimates on the basis of total costs.

**Commingling of Funds.** Federal agencies shall not require physical segregation of cash deposits or the establishment of any eligibility requirements for funds which are provided to a recipient. However, the accounting systems of all recipients and subrecipients must ensure that agency funds are not commingled with funds from other Federal agencies. Each award must be accounted for separately. Recipients and subrecipients are prohibited from commingling funds on either a program-by-program basis or a project-by-project basis.

Funds specifically budgeted and/or received for one project may not be used to support another. Where a recipient's or subrecipient's accounting system cannot comply with this requirement, the recipient or subrecipient shall establish a system to provide adequate fund accountability for each project which it has awarded.

**Recipient and Subrecipient Accounting Responsibilities** include:

1. **Reviewing Financial Operations.** Direct recipients should be familiar with, and periodically monitor, their subrecipient's financial operations, records, system, and procedures. Particular attention should be directed to the maintenance of current financial data.

2. **Recording Financial Activities.** The subrecipient's award or contract obligation, as well as cash advances and other financial activities, should be recorded in the books of the recipient in summary form. Subrecipient expenditures should be recorded on the books of the recipient or evidenced by report forms duly filed by the subrecipient. Non-Federal contributions applied to programs or projects by subrecipients should likewise be recorded, as should any program income resulting from program operations.
3. **Budgeting and Budget Review.** The recipient should ensure that each subrecipient prepares an adequate budget on which its award commitment will be based. The detail of each project budget should be maintained on file by the recipient (see pages 109-111).
4. **Accounting for Non-Federal Contributions.** Recipients will ensure that the requirements, limitations, and regulations pertinent to non-Federal contributions are applied.
5. **Audit Requirements.** Recipients must ensure that subrecipients have met the necessary audit requirements contained in this Guide.
6. **Reporting Irregularities.** Recipients and their subrecipients are responsible for promptly notifying the awarding agency and the Federal cognizant audit agency of any illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.
7. **Debarred and Suspended Organizations.** Recipients and subrecipients must not award or permit any award at any level to any party which is debarred or suspended from participation in Federal assistance programs. For details regarding debarment procedures, see 28 CFR Part 67, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-free Workplace (Grants).
8. **Bonding.** The awarding agency may require adequate fidelity bond coverage where recipient lacks sufficient coverage to protect the Federal government interest (see OMB Circular A-110, Attachment, Subpart C, paragraph 21(c)).

Where the conduct of a program or one of its components is delegated to a subrecipient, the direct recipient is responsible for all aspects of the program including proper accounting and financial recordkeeping by the subrecipient. Responsibilities include the accounting of receipts and expenditures, cash management, the maintaining of adequate financial records, and the refunding of expenditures disallowed by audits.

**Cash Depositories.** In accordance with the administrative requirements for government and non-governmental entities, recipients are encouraged to use minority banks (banks which are owned at least 50 percent by minority group members). A list of minority-owned banks may be obtained from the Minority Business Development Agency, Department of Commerce, Washington, D. C. 20230.

**Supplanting.** A written certification must be provided to the awarding agency or recipient agency that Federal funds will not be used to supplant State or local funds. Federal funds must be used to supplement existing funds for program activities and not replace those funds which have been appropriated for the same purpose. Potential supplanting will be the subject of application review, as well as pre-award review, post-award monitoring, and audit. If there is a potential presence of supplanting, the applicant or grantee will be required to supply documentation demonstrating that the reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds.

## NOTES



## NOTES

## **PART III -- POST AWARD REQUIREMENTS**

### **Chapter 1: Payments**

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#### **Highlights of Chapter:**

- ◆ Payment Methods
- ◆ Termination of Advance Funding
- ◆ Minimum Cash on Hand
- ◆ Advance Payments
- ◆ Interest Earned on Advances
- ◆ Cash Management Improvement Act of 1990

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#### **Payment Methods.**

The Office of Justice Programs (OJP) offers three Methods of Payment of grant funds, which include LOCES, Vendor Express, and Treasury Check.

**LOCES** is the Letter-of-Credit Electronic Certification System (LOCES). The LOCES is a modem connection service that allows recipients of OJP funds to electronically request payment from OJP on one day and receive a direct deposit to their bank for the requested funds usually on the following day. To make requests for payment through LOCES, an organization must have a personal computer with a 1200 or 2400 baud modem operating with DOS 3.1 or later. OJP requires the contact names, telephone numbers, and addresses of various individuals who will be involved in LOCES. Once the LOCES Computer Information Form is received, a complete information package is sent out which contains the Vendor Express enrollment form, SF 3881. After this form is received, the LOCES program diskette and passwords are mailed separately to ensure security from unauthorized persons using the system.

**Vendor Express** is available for grant recipients who do not have a personal computer with a modem but want to receive payments electronically to their bank. To be established on Vendor Express, OJP requires the grantee to complete the ACH Vendor/Miscellaneous Payment Enrollment Form, SF 3881. This will provide the banking information needed to make payments to the proper bank account. To request a payment, the grantee must submit a Request for Advance or Reimbursement form (OJP 7160/3), referred to as an H-3. Upon receipt, review, and approval of the H-3, OJP will notify Treasury to electronically send funds to the grantee's bank account.

**Treasury Check.** Grantees who do not use LOCES or Vendor Express will be paid by a Treasury Check. Grant recipients send in a completed H-3 form to request a payment. Upon review and approval, OJP will submit a Schedule for Payment to Treasury for the requested amount. Treasury will issue and mail the check directly to the grantee within three to four days after receiving the Schedule for Payment.

**Termination of Advance Funding.** When a recipient organization receiving cash advances by letter of credit or by direct Treasury check demonstrates an unwillingness or inability to attain program or project goals or to establish procedures that will minimize the time elapsing between cash advances and disbursements, cannot adhere to guideline requirements or special conditions, engages in the improper award and administration of subawards or contracts, or is **UNABLE TO SUBMIT RELIABLE AND/OR TIMELY REPORTS**, the awarding agency may terminate advance financing and require the recipient organization to finance its operations with its own working capital. Payments to the recipient shall then be made by the direct Treasury check method to reimburse the recipient for actual cash disbursements.

**Minimum Cash on Hand.** Whatever payment method is used, recipient organizations should request funds based upon immediate disbursement requirements. Funds will generally not be paid in a lump sum, but rather disbursed over time as project costs are incurred or anticipated. Recipients should time their drawdown requests to ensure that Federal cash on hand is the minimum needed for disbursements to be made immediately or within a few days.

Fund requests from subrecipients create a continuing cash demand on award balances of the State. The State should keep in mind that idle funds in the hands of subrecipients will impair the goals of the Federal Letter of Credit System. All recipients must develop procedures for the disbursement of funds to ensure that cash on hand is kept at a minimal balance.

#### **Advance Payments.**

**Quarterly Payments.** Quarterly payments of \$6,250 may **ONLY** be made when the award is for three years and is \$75,000 or less for the total of three years. Requests for deviations from this policy require written approval from the Office of the Comptroller.

**Monthly Payments.** In most cases, an advance payment not to exceed 30 days may be approved by the awarding agency and recipient organizations.

**Note:** The advance payment rules and excess cash-on-hand rules do not apply to confidential funds

**Interest Earned on Advances.** Recipients and subrecipients who are on an advance method of payment shall minimize the time elapsing between the transfer and disbursement of funds. Recipients and subrecipients should be aware that drawdowns of excessive cash may result in cancellation of their advance method of funding. However, recipients and subrecipients who administer confidential funds may establish different procedures for administering confidential funds in order to provide quick access to funds to meet the needs of the project.

1. In accordance with Section 203 of the Intergovernmental Cooperation Act of 1968 (Pub. L. 90-577; 31 USC §6503(a)), a State and its subrecipient and any agency or instrumentality of a State, including State institutions of higher education and State hospitals, but not political subdivisions of a State (cities, towns, counties, and special districts created by State law) **SHALL NOT** be held accountable for interest earned on grant money pending its disbursement for program purposes.

2. In accordance with Sections 102, 103, and 104 of the Indian Self Determination Act (Pub. L. 93-638; USC §450(j)), tribal organizations SHALL NOT be held accountable for interest earned pending their disbursement by such organizations.
3. All recipients and subrecipients, except as specified in items 1 and 2 above, SHALL account for interest earned on advances of Federal funds as follows:
  - a. May keep interest earned on all advances of Federal grant funds up to \$250 PER FISCAL YEAR per recipient or subrecipient. This amount is not per award but from all funds received as a result of Federal programs.
  - b. Annually remit interest earned (over and above the \$250 per fiscal year) on advances of Federal grant funds to the United States Department of Health and Human Services, Division of Payment Management Services, P. O. Box 6021, Rockville, MD 20852.

**Cash Management Improvement Act of 1990.** To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents must be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR Part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs." Copies of 31 CFR Part 205 may be obtained from the DOJ Response Center at 1-800-421-6770.

## NOTES

## Chapter 2: **Period of Availability of Funds**

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### **Highlights** of Chapter:

- ◆ Redesignation of Fund Year
- ◆ Availability of Awards
- ◆ Obligation of Funds
- ◆ Expenditure of Funds
- ◆ Award Extension Criteria

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**Redesignation of Fund Year.** States are prohibited from changing their block/formula awards and their related obligations and expenditures from one Federal fiscal year to another Federal fiscal year.

**Availability of Awards.** Block/formula grants administered by the Bureau of Justice Assistance (BJA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) are awarded for the Federal fiscal year of the appropriation plus two full Federal fiscal years.

Formula grants administered by the Office for Victims of Crime (OVC) awards are available for the fiscal year of the award plus one fiscal year.

Discretionary awards made by OJP offices and bureaus are awarded for a specified time and a particular award period is established for each award (usually 12 or 18 months).

**Obligation of Funds.** An obligation occurs when funds are encumbered, such as a valid purchase order or requisition to cover the cost of purchasing an authorized item on or after the begin date and up to the last day of the grant period in the award. Any funds not properly obligated by the recipient within the grant award period will lapse and revert to the awarding agency. The obligation deadline is the last day of the grant award period unless otherwise stipulated. (**Example:** If the award period is 10/1/95 to 9/30/96, the obligation deadline is 9/30/96.) Block/formula grantees and subgrantees must complete performance during the obligation period. Performance as a result of a contract under a block/formula grant may be completed during the expenditure period not to exceed 90 days after the end date of the grant.

**Expenditure of Funds.** Block, formula, and discretionary funds which have been properly obligated by the end of the award period will have 90 days in which to be liquidated (expended). Any funds not liquidated at the end of the 90-day period will lapse and revert to the awarding agency. (**Example:** If the award period is 10/1/95 to 9/30/96, the expenditure deadline is 12/31/96.)

**Award Extension Criteria.** Block, formula, and discretionary awards (except for Victims Compensation and Assistance funds) may be awarded an extension of the obligation date in response to a written request for an extension stating the need for the extension and indicating the additional time required. Written requests must be submitted in the following timeframe:

- **Block/Formula awards:** 60 calendar days before the end date of the award.

**Note:** Byrne Formula awards have new requirements to request extensions. The recipient should contact the BJA grant advisor for the additional requirements.

- **Discretionary awards:** 30 calendar days before the end date of the award.

The extension allowable for any project period is generally 12 months and requests for retroactive extension of project periods will not be considered. Generally, only one extension per award will be permitted. Application for an extension of the obligation period of a program or set of programs beyond 12 months must be justified by extraordinary circumstances beyond the control of the recipient and subrecipient.

Extensions will only be considered if the EXTENSION CRITERIA established below are met by the recipient at the time the request for the extension of the obligation deadline is submitted to the awarding agency for approval. Modifications of the general extension policy stated above are at the discretion of the awarding agency. Extension of the expenditure deadline date is allowable for all awards (including Victims Compensation and Assistance) upon written request for the extension and written approval by the awarding agency.

The extension criteria for extending the obligation or expenditure deadline for a project, program, or set of programs includes the following:

1. **Financial Reports.** There must be on file with the awarding agency current and acceptable Financial Status Reports, SF 269As (formerly the H-1 Report), and all identified financial issues must be resolved.
2. **Special Conditions.** All special conditions attached to the award must be satisfied except those conditions that must be fulfilled in the remaining period of the award. This also includes the performance and resolution of audits in a timely manner.
3. **Justification.** A narrative justification must be submitted with the project or program extension request. Complete details must be provided, including the justification and the extraordinary circumstances which require the proposed extension. Explain the effect of a denial of the request on the project or program.
4. **Approval.** The awarding agency is expected to take action on any proposed extension request within 15 work days after receipt of the request.
5. **Extension Avoidance.** To avoid the need to make a request to extend the obligation or expenditure deadline of a block/formula program, all subawards should be made at least six months prior to the end of the obligation deadline for the award.

## NOTES



## NOTES

## Chapter 3: Matching or Cost Sharing

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### Highlights of Chapter:

- ◆ Match Requirements
- ◆ Types of Match
  - Hard Match
  - Soft Match
- ◆ Source and Types of Funds
- ◆ Timing of Matching Contribution
- ◆ Records for Match
- ◆ Waiver of Match
- ◆ Match Limitation

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**Match Requirements.** Match for the block/formula award programs is to be provided for on a project-by-project basis, unless otherwise stated in the program guidelines. Any deviation from the program guidelines must receive the prior written approval of the awarding agency. Match is restricted to the same use of funds as allowed for the Federal funds.

### Types of Match.

1. **Hard Match** (cash) includes cash spent for project-related costs. Allowable cash match must include those costs which are allowable with Federal funds with the exception of the acquisition of land, when applicable.
2. **Soft Match** (in-kind) includes, but is not limited to, the valuation of in-kind services. "In-kind" is the value of something received or provided that does not have a cost associated with it. For example, if in-kind match is permitted by law, then the value of donated services could be used to comply with the match requirement. Also, third party in-kind contributions may count toward satisfying match requirements provided the third party receiving the contributions expend them as allowable costs (see 28 CFR Part 66, 24(b)(2), Grants Management Common Rule for State and Local Units of Governments).

**Source and Type of Funds.** Hard match (cash) may be applied from the following sources:

1. Funds from States and local units of government that have a binding commitment of matching funds for programs or projects.
2. Funds from the following:
  - a. Housing and Community Development Act of 1974, 42 USC §5301, et seq. (subject to the applicable policies and restrictions of the Department of Housing and Development).

- b. Appalachian Regional Development Act of 1965, 40 USC §214.
3. Equitable Sharing Program, 21 USC §881(e) (current guidelines developed by the DOJ Asset Forfeiture Office apply). Forfeited assets used as match from the Equitable Sharing Program would be adjudicated by a Federal court.
4. Funds contributed from private sources.
5. Program income and the related interest earned on that program income generated from projects may be used as match provided it is identified and approved prior to making an award.
6. Program income funds earned from seized assets and forfeitures (adjudicated by a State court, as State law permits).
7. Funds appropriated by Congress for the activities of any agency of a Tribal government or the Bureau of Indian Affairs performing law enforcement functions on Tribal lands may be used as matching funds.
8. Otherwise authorized by law.

**Timing of Matching Contributions.** Matching contributions need not be applied at the exact time or in proportion to the obligation of the Federal funds. However, the full matching share must be obligated by the end of the period for which the Federal funds have been made available for obligation under an approved program or project. Time-phased matching may be required by the awarding agency on awards to non-governmental recipients.

**Records for Match.** Recipients and their subrecipients must maintain records which clearly show the source, the amount, and the timing of all matching contributions. In addition, if a program or project has included within its approved budget contributions which exceed the required matching portion, the recipient must maintain records of them in the same manner as it does the awarding agency funds and required matching shares. For all block/formula funds, the State has primary responsibility for subrecipient compliance with the requirements. For all discretionary funds, the recipient and the subrecipient or contractual recipient have shared responsibility for ensuring compliance with the requirements regarding matching shares.

#### **Waiver of Match.**

1. Section 504(a)(2) of the Omnibus Crime Control Act provides that, in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in Section 501(a) of the Crime Control Act, the Federal portion shall be 100 percent of such cost.
2. Sections 228(d) and 295(c)(1) of the Juvenile Justice Act provides that, in the case of an award under Title II to an Indian tribe, if the Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or project

to be funded under the award, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary. This provision applies also to cooperative agreements.

- (3) In accordance with 48 USC §1469a, the awarding agency, in their discretion, shall waive any requirement for matching funds otherwise required by law to be provided by the insular areas. This waiver applies to ALL awards made to insular areas.

**Match Limitation.** A certification must be provided that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for law enforcement programs by the recipients of grant funds. This certification shall be in writing and submitted with the application for funding.

## NOTES

## Chapter 4: Program Income

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### Highlights of Chapter:

- ◆ Use of Program Income
- ◆ Examples of Program Income and Disposition Requirements
  - Sale of Property
  - Royalties
  - Attorney's Fees and Costs
  - Registration/Tuition Fees
  - Asset Seizures and Forfeitures
- ◆ Addition Method
- ◆ Accounting for Program Income
- ◆ Procedures for Recovery of Costs

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**Use of program income** may be to supplement project costs or reduce project costs or may be refunded to the Federal government.

**Examples of Program Income** and the Policies Governing the Disposition of the Various Types of Program Income.

1. **Sale of Property.** In the case of real property purchased in part with Federal funds, the recipient and/or subrecipient may be permitted to retain title upon compensating the awarding agency for its fair share of the property. The Federal share of the property shall be computed by applying the percentage of the Federal participation in the total cost of the project for which the property was acquired to the current fair market value of the property.
2. **Royalties.** Recipient shall retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the project provide otherwise or a specific agreement governing such royalties has been negotiated between the awarding agency and the recipient.
3. **Attorney's Fees and Costs.** Income received pursuant to a court-ordered award of attorney's fees or costs, which is received subsequent to completion of the project, is program income to the extent it represents a reimbursement for attorney's fees and costs originally paid under the award. Disposition of such program income is subject to the restrictions on the use of program income set forth in the award.
4. **Registration/Tuition Fees.** These types of program income shall be treated in accordance with disposition instructions set forth in the project's terms and conditions.
5. **Asset Seizures and Forfeitures.** Income received from the sale of seized and forfeited assets (personal or real property) or from seized and forfeited money shall follow the "Addition Method" of handling program income unless an alternate method for

handling program income is designated in the recipient's award document. The following policies apply to program income from asset seizures and forfeitures:

- a. Program income, with the approval of the recipient, may be retained by the entity earning the program income or used by the recipient for any purpose that furthers the objectives of the legislation under which the grant was made.
- b. States or local units of government, MAY USE PROGRAM INCOME FUNDS FROM SEIZED AND FORFEITURE ASSETS AS MATCH, when assets are adjudicated by a State Court, in accordance with the State law. In addition, State and local units of government MAY use cash received under the equitable sharing program for the non-Federal portion (match) of program costs, as provided for in the guidelines established by the DOJ Asset Forfeiture Office, when the assets are adjudicated by a Federal Court.
- c. There are no Federal requirements governing the disposition of program income earned after the end of the funding period unless the terms of the award or the awarding agency's regulations provide otherwise. **PROGRAM INCOME FROM ASSET SEIZURES AND FORFEITURES IS CONSIDERED EARNED BY THE PROJECT AT THE TIME OF THE SEIZURE, I.E., TRANSFER OF CUSTODY TO GOVERNMENT ENTITY, AND IS AVAILABLE FOR USE BY THE RECIPIENT UPON FORFEITURE.**

**Note:** Fines as a result of law enforcement activities are not considered program income.

6. **Other Guidelines.** In the absence of other restrictions on disposition contained within the award or the terms and conditions of the project, program income shall be added to the funds committed in the agreement (**Addition Method** of handling program income). The program income shall be used by the recipient/subrecipient for any purpose that furthers the broad objectives of the legislation under which the award was made (i.e., expanding the project or program, continuing the project or program that furthers the broad objectives of the State, obtaining equipment or other assets needed for the project or program, or for other activities that further the statute's objectives).

#### Responsibilities:

- a. Primary recipients of block/formula recipients will be responsible for requiring subrecipients to comply with program income guidelines.
- b. Block/formula subrecipients and the awarding agency's discretionary recipients will be responsible for the implementation and compliance of program income guidelines.
- c. Technical assistance, where needed, will be provided by the Office of the Comptroller.

**Accounting for Program Income.** All income generated as a direct result of an agency-funded project shall be deemed program income. Program income must be used for the purposes and under the conditions applicable to the award. If the cost is allowable under the Federal grant program, then the cost would be allowable using program income. If there is no special condition on the award concerning the accounting for program income after the funding period, then program income can be used at the discretion of the recipient. The Federal portion of program income must be accounted for up to the same ratio of Federal participation as funded in the project or program. For example:

1. A discretionary project funded by 100 percent Federal funds must account for and report on 100 percent of the total program income earned. If the total program income earned was \$20,000, the recipient must account for and report the \$20,000 as program income on the Financial Status Report.
2. If a recipient was funded by formula/block funds at 75 percent Federal funds and 25 percent non-Federal funds and the total program income earned by the grant was \$100,000, \$75,000 must be accounted for and reported, by the recipient, as program income on the Financial Status Report.

**Procedures for Recovery of Costs Incurred by State and Local Law Enforcement Agencies.**

1. **Authorization of Reimbursement.** When a State or local law enforcement agency provides information to the Internal Revenue Service (IRS) that substantially contributes to the recovery of Federal taxes imposed with respect to illegal drug-related activities (or money laundering in connection with such activities), the agency may be reimbursed by IRS for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum recovered.
2. **Records.** The IRS shall maintain records of the receipt of information from a contributing agency and shall notify the agency when monies have been recovered as the result of such information. Following such notification, the agency shall submit a statement detailing the investigative costs it incurred. Where more than one State or local agency has given information, the IRS shall equitably allocate investigative costs among the agencies not to exceed an aggregate amount of 10 percent of the taxes recovered.
3. **No Duplicative Reimbursement.** No State or local agency may receive reimbursement under Section 7624 if reimbursement has been received by the agency under a Federal or State forfeiture program or under State revenue laws.
4. **Awarding Agency Funds.** If the information/investigation is performed with awarding agency funds, the reimbursement received from IRS would be program income and subject to the program income guidelines discussed above.



## NOTES

## Chapter 5: Adjustments to Awards

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### **Highlights** of Chapter:

- ◆ Types of Project Changes
- ◆ Notification
- ◆ Reprogramming of Funds

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All requests for programmatic and/or administrative budget changes must be submitted in a timely manner by the recipient/subrecipient. All requests for changes to the approved award shall be carefully reviewed by the applicable authority for both consistency with this Guide and their contribution to project goals and objectives.

### **Types of Project Changes.**

1. Change in project site.
2. Changes which increase or decrease the total cost of the project.
3. Change in approved budget categories in excess of 10 percent of the total award amount. Movement of dollars between approved budget categories is approved up to 10 percent of the total budget cost (total award amount) as last approved by the awarding agency provided there is no change in project scope. When the cumulative changes exceed 10 percent of the total award amount or change the scope of the project, prior approval from the awarding agency is required.
4. Change in or temporary absence of the project manager/director.
5. Transfer of project.
6. Successor in interest and name change agreements.
7. Addition of an item to the project budget requiring prior approval.
8. Retirement of special conditions, if required.
9. Change in period (no cost extension).
10. Change in the scope of the programmatic activities or purpose of the project.

**Notification.** All recipients must give prompt notification in writing to the awarding agency of events or proposed changes which may require an adjustment/notification. In requesting an adjustment, the recipient must set forth the reasons and basis for the proposed change and any other data deemed helpful for awarding agency review.

**Reprogramming of Funds.** The movement of funds awarded under Crime Control programs from one program to another program contained in an approved State block or formula award, which results in deletion or addition of a program or change in the subrecipient, must be approved by the awarding agency prior to the expenditure of funds. The awarding agency will consider retroactive approval only in extremely unusual circumstances. When such retroactive approval is not considered warranted, the awarding agency will exercise its option to reduce the award by the amount of the unauthorized reprogrammed funds.

## NOTES

## NOTES

## Chapter 6: Property and Equipment

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### Highlights of Chapter:

- ◆ Acquisition of Property
- ◆ Screening
- ◆ Loss, Damage, or Theft of Equipment
- ◆ Equipment Acquired with BJA Formula Funds
- ◆ Equipment Acquired with OJJDP or OVC Formula Funds
- ◆ Equipment and Non-expendable Personal Property Acquired with Discretionary Funds
- ◆ Real Property Acquired with Formula Funds
- ◆ Real Property Acquired with Discretionary Funds
- ◆ Federal Equipment
- ◆ Replacement of Property
- ◆ Retention of Property Records
- ◆ Supplies
- ◆ Copyrights
- ◆ Patents, Patent Rights, and Inventions

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**Acquisition of Property.** Recipients/subrecipients are required to be prudent in the acquisition and management of property with Federal funds. Expenditure of funds for the acquisition of new property, when suitable property required for the successful execution of projects is already available within the recipient or subrecipient organization, will be considered an unnecessary expenditure.

**Screening.** Careful screening should take place before acquiring property in order to ensure that it is needed with particular consideration given to whether equipment already in the possession of the recipient/subrecipient organization can meet identified needs. While there is no prescribed standard for such review, recipient/subrecipient procedures may establish levels of review dependent on factors such as the cost of the proposed equipment and the size of the recipient or subrecipient organization. The establishment of a screening committee may facilitate the process; however, a recipient or subrecipient may utilize other management techniques which it finds effective as a basis for determining that the property is needed and that it is not already available within the recipient's organization.

The awarding agency's program monitors must ensure that the screening referenced above takes place and that the recipient/subrecipient has an effective system for property management. Recipients/subrecipients are hereby informed that if the awarding agency is made aware that the recipient/subrecipient does not employ an adequate property management system, project costs associated with the acquisition of the property may be disallowed.

**Loss, Damage, or Theft of Equipment.** Recipients/subrecipients are responsible for replacing or repairing the property which is willfully or negligently lost, stolen, damaged, or destroyed. Any loss, damage, or theft of the property must be investigated and fully documented and made part of the official project records.

**Equipment Acquired with Crime Control Act Block/Formula Funds (BJA).** Equipment acquired shall be used and managed to ensure that the equipment is used for criminal justice purposes. Standards and procedures governing ownership, use, management, and disposition are as follows:

1. **Title.** The Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC §3789, et seq., Section 808, requires that the title to all equipment and supplies purchased with funds made available under the Crime Control Act shall vest in the criminal justice agency or non-profit organization that purchased the property, if it provides written certification to the State office that it will use the property for criminal justice purposes. If such written certification is not made, title to the property shall vest in the State office, which shall seek to have the equipment and supplies used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.
2. **Use and Management.** A subrecipient or State shall use and manage equipment in accordance with their own procedures as long as the equipment is used for criminal justice purposes.
3. **Disposition.** When equipment is no longer needed for criminal justice purposes, a State shall dispose of equipment (for both the State and subrecipients), in accordance with State procedures, with no further obligation to the awarding agency.

**Equipment Acquired with Juvenile Justice Act Formula and Victims of Crime Act Assistance (Formula) Funds (OJJDP & OVC).** Equipment acquired under an award shall be used and managed to ensure that the equipment is used for criminal justice purposes. Standards and procedures governing ownership, use, management, and disposition are as follows:

1. **Title.** Title to equipment acquired under an award or subaward will vest upon acquisition in the recipient or subrecipient subject to the obligations and conditions set forth in 28 CFR Part 66.
2. **Use.**
  - a. A State shall use equipment acquired under an award by the State in accordance with State laws and procedures. The awarding agency encourages the States to follow the procedures set forth in this Guide.
  - b. Other government recipients and subrecipients shall use equipment in accordance with the following requirements:
    - (1) Equipment must be used by the recipient or subrecipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be

used in other activities currently or previously supported by a Federal agency.

- (2) The recipient or subrecipient shall also make equipment available for use on other projects or programs currently or previously supported by the Federal government, providing such use does not interfere with the work on the projects or programs for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered and treated as program income to the project, if appropriate.
- (3) Notwithstanding program income, the recipient or subrecipient shall not use equipment acquired with funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.
- (4) When acquiring replacement equipment, recipients or subrecipients may use the equipment to be replaced as a trade-in or sell the equipment and use the proceeds to offset the cost of the replacement equipment subject to the written approval of the awarding agency.

### 3. **Management.**

- a. A State shall manage equipment acquired under an award by the State, in accordance with State laws and procedures.
- b. Other government recipient and subrecipient procedures for managing equipment (including replacement), whether acquired in whole or in part with project funds, will, at a minimum, meet the following requirements:
  - (1) Property records must be maintained which include:
    - (a) Description of the property;
    - (b) Serial number or other identification number;
    - (c) Source of the property;
    - (d) Identification of who holds the title;
    - (e) Acquisition date;
    - (f) Cost of the property;
    - (g) Percentage of Federal participation in the cost of the property;
    - (h) Location of property;



- (i) Use and condition of the property; and
  - (j) Disposition data including the date of disposal and sale price.
- (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
  - (3) A control system must exist to ensure adequate safeguards to prevent:
    - (a) Loss;
    - (b) Damage; or
    - (c) Theft of the property.

Any loss, damage, or theft shall be investigated by the recipient and subrecipient, as appropriate.

- (4) Adequate maintenance procedures must exist to keep the property in good condition.
- (5) If the recipient or subrecipient is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

#### 4. **Disposition.**

- a. A State recipient shall dispose of its equipment acquired under the award in accordance with State laws and procedures.
- b. Other government recipients and subrecipients shall dispose of the equipment when original or replacement equipment acquired under the award or subaward is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency. Disposition of the equipment will be made as follows:
  - (1) Items with a current per unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to the awarding agency.
  - (2) Items with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment. Seller is also eligible for sale costs.

- (3) In cases where a recipient or subrecipient fails to take appropriate disposition actions, the awarding agency may direct the recipient or subrecipient to take other disposition actions.

## **Equipment and Non-expendable Personal Property Acquired with Discretionary Funds.**

1. **Title.** Title to equipment acquired with Federal funds will vest upon acquisition in the recipient subject to the obligations and conditions set forth in 28 CFR Part 66 for State and local units of government and in 28 CFR Part 70 for other recipients.
2. **Use.** A State shall use equipment acquired under an award by the State in accordance with State laws and procedures.

Local government recipients shall use equipment in accordance with the requirements contained in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT FORMULA AND VICTIMS OF CRIME ACT ASSISTANCE (FORMULA) FUNDS (OJJDP & OVC)."

Other recipients shall use non-expendable personal property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the recipients shall use the non-expendable personal property in connection with its other Federally-sponsored activities in the following order of priority:

- a. Other projects of the awarding agency needing the property.
  - b. Grants of a State needing the property.
  - c. Projects of other Federal agencies needing the property.
3. **Management.**
    - a. A State shall manage its equipment acquired under an award in accordance with State laws and procedures.
    - b. Local government recipients and subrecipients shall manage equipment in accordance with requirements stated in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT FORMULA AND VICTIMS OF CRIME ACT ASSISTANCE (FORMULA) FUNDS (OJJDP & OVC)."
    - c. Other recipients' property management standards for non-expendable personal property shall include the following procedural requirements:
      - (1) Property records shall be maintained accurately and include:
        - (a) A description of the property;
        - (b) Manufacturer's serial number, model number, Federal stock number, or other identification number;
        - (c) Source of the property, including the award number;

- (d) Whether title vests in the recipient or the Federal government;
  - (e) Acquisition date (or date received, if the property was furnished by the Federal government) and cost;
  - (f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired (not applicable to property furnished by the Federal government);
  - (g) Location, use, and condition of the property at the date the information was reported;
  - (h) Unit acquisition cost; and
  - (i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal-sponsoring agency for its share.
- (2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.
  - (3) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of non-expendable property shall be investigated and fully documented. If the property was owned by the Federal government, the recipient shall promptly notify the Federal agency.
  - (4) Adequate maintenance procedures shall be implemented to keep the property in good condition.
  - (5) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

#### 4. **Disposition.**

- a. A State shall dispose of its equipment acquired under the award by the State in accordance with State laws and procedures.
- b. Local government recipients and subrecipients shall follow the disposition requirements in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT FORMULA AND VICTIMS OF CRIME ACT ASSISTANCE (FORMULA) FUNDS (BJA & OVC)."

c. Other recipients shall adhere to the following disposition requirements for non-expendable personal property:

(1) A recipient may use non-expendable personal property with a fair market value of less than \$5,000 for other activities without reimbursement to the Federal government or sell the property and retain the proceeds.

(2) A recipient may retain non-expendable personal property with a fair market value of \$5,000 or more for other uses provided that compensation is made to the awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the recipient has no need for the property and the property has further use value, the recipient shall request disposition instructions from the awarding agency. The awarding agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The awarding agency shall issue instructions to the recipient no later than 120 days after the recipient's request, and the following procedures shall govern:

(a) If so instructed, or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the property and reimburse the awarding agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the grant. However, the recipient shall be permitted to deduct and retain from the Federal share \$100 or 10 percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(b) If the recipient is instructed to ship the property to other agencies needing the property, the recipient shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the recipient's participation in the cost of the project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(c) If the recipient is instructed to otherwise dispose of the property, the recipient shall be reimbursed by the awarding agency for such costs incurred in its disposition.

5. **Transfer of Title.** The awarding agency may reserve the right to transfer title to property acquired with Federal funds that have a fair market value of \$5,000 or more to the Federal government or a third party named by the awarding agency, when such a third party is otherwise eligible under existing statutes. Such transfers are subject to the following standards:

- a. The property must be identified in the award or otherwise made known to the recipient in writing.
- b. The awarding agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the awarding agency fails to issue disposition instructions within the 120 calendar day period, the recipient shall follow standards set in 28 CFR Parts 66 and 70.
- c. When title to property is transferred, the recipient shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

### **Real Property Acquired with Formula Funds.**

1. **Land Acquisition.** Block/formula funds CANNOT be used for land acquisition.
2. **Title.** Subject to the obligations and conditions set forth in the award, title to real property acquired under an award or subaward vests, upon acquisition, in the recipient or subrecipient.
3. **Use of Real Property.** The recipient and its subrecipients may use real property acquired, in whole or in part, with Federal funds for the authorized purposes of the original grant or subaward as long as needed for that purpose. The subrecipients shall maintain an inventory report which identifies real property acquired, in whole or in part, with block or formula funds. The recipient or subrecipient shall not dispose of or encumber its title or other interests.
4. **Disposition.** The subrecipient shall obtain approval for the use of the real property in other projects when the subrecipient determines that the real property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federally-sponsored projects or programs that have purposes consistent with those authorized for support by the State. When the real property is no longer needed as provided above, the subrecipient shall request disposition instructions from the State. The State shall exercise one of the following:
  - a. Direct the real property to be transferred to another subrecipient or a criminal justice activity needing the property, provided that use of such real property is consistent with those objectives authorized for support by the State.
  - b. Return all real property furnished or purchased wholly with Federal funds to the control of the awarding agency. In the case of real property purchased in part with Federal funds, the subrecipient may be permitted to retain title upon compensating the awarding agency for its fair share of the property. The Federal share of the property shall be computed by applying the percentage of the Federal participation in the total cost of the project for which the property was acquired to the current fair market value of the property. In those instances where the subrecipient does not wish to purchase real property originally purchased in part

with Federal funds, disposition instructions shall be obtained from the awarding agency.

### **Real Property Acquired with Discretionary Funds.**

1. **Land Acquisition.** Discretionary funds CANNOT be used for land acquisition.
2. **Title.** Subject to obligations and conditions set forth in 28 CFR Parts 66 and 70, title to real property acquired under an award vests upon acquisition with the recipient.
3. **Use of Property.** The use of property by the recipient is subject to the same principles and standards as outlined for property acquired with formula funds.
4. **Disposition.** The recipient shall follow the same principles and standards as outlined for subrecipients except the recipient shall request disposition instructions from the Federal agency not the State.
5. **Transfer of Title.** With regard to the transfer of title to the awarding agency or to a third-party designated/approved by the awarding agency, the recipient or subrecipient shall be paid an amount calculated by applying the recipient or subrecipients percentage of participation in the purchase of the real property to the current fair market value of the property.

**Federal Equipment.** In the event a recipient or subrecipient is provided Federally-owned equipment, the following requirements apply:

1. **Title** remains vested in the Federal government.
2. **Recipients or subrecipients shall manage the equipment** in accordance with the awarding agency's rules and procedures and submit an annual inventory listing.
3. **When the equipment is no longer needed,** the recipient or subrecipient shall request disposition instructions from the awarding agency.

**Replacement of Property (Equipment and Non-expendable Personal Property).** When an item of property is no longer efficient or serviceable but the recipient/subrecipient continues to need the property in its criminal justice system, the recipient/subrecipient may replace the property through trade-in or sale and subsequent purchase of new property, provided the following conditions are met:

1. **Similar Function.** Replacement property must serve the same function as the original property and must be of the same nature or character, although not necessarily of the same grade or quality.
2. **Credits.** Value credited for the property, if the property is traded in, must be related to its fair market value.

3. **Time.** Purchase of replacement property must take place soon enough after the sale of the property to show that the sale and the purchase are related.
4. **Compensation.** When acquiring replacement property, the recipient/subrecipient may use the property to be replaced as a trade-in or the proceeds from the sale of the property to offset the cost of the new property.
5. **Prior Approval.** State subrecipients shall obtain the written permission of the State to use the provisions of this section prior to entering into negotiation for the replacement or trade-in of property.

**Retention of Property Records.** Records for equipment, non-expendable personal property, and real property shall be retained for a period of three years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

### **Supplies.**

1. **Title.** Title to supplies acquired under an award or subaward vests, upon acquisition, in the recipient or subrecipient respectively.
2. **Disposition.** If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the funding support and the supplies are not needed for any other Federally-sponsored programs or projects, the recipient or subrecipient shall compensate the awarding agency for its share. The amount of compensation shall be computed in the same manner as for non-expendable personal property or equipment.

**Copyrights.** The awarding agency reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes:

1. The copyright in any work developed under an award or subaward; and
2. Any rights of copyright to which a recipient or subrecipient purchases ownership with support.

**Patents, Patent Rights, and Inventions.** If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal award or subaward funds, such facts must be promptly and fully reported to the awarding agency. Unless there is a prior agreement between the recipient and the awarding agency on disposition of such items, the awarding agency shall determine whether protection on the invention or discovery shall be sought. The awarding agency will also determine how their rights in the invention or discovery (including rights under any patents issued thereon) shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments



and Agencies, dated August 23, 1971, and statement of Government Patent Policy, as printed in 36 FR 16839).

Government-wide regulations have been issued at 37 CFR Part 401 by the Department of Commerce.

## NOTES

## Chapter 7: Allowable Costs

Allowable costs are those costs identified in the circulars and in the grant program's authorizing legislation. In addition, costs must be reasonable, allocable, necessary to the project, and comply with the funding statute requirements. Discussion of the certain elements of cost follows.

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### **Highlights** of Chapter:

- ◆ Compensation for Personal Services
- ◆ Conferences and Workshops
- ◆ Travel
- ◆ Space
- ◆ Printing
- ◆ Publication
- ◆ Duplication
- ◆ Production
- ◆ Other Allowable Costs

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### **Compensation for Personal Services.**

1. **Two or More Federal Grant Programs.** Where salaries apply to execution of two or more grant programs or cost activities, proration of costs to each activity must be made based on time and/or effort reports. In cases where two or more grants constitute one identified activity or program, salary charges to one grant may be allowable after written permission is obtained from the awarding agency. Salary supplements including severance provisions and other benefits with non-Federal funds are prohibited without approval of the awarding agency. (Refer to OMB Circular A-87, Attachment B, OMB Circular A-122, or OMB Circular A-21.)
2. **Extra Work.**
  - a. A State or local government employee may be employed by a recipient or sub-recipient, in addition to his full-time job, provided the work is performed on the employee's own time and:
    - (1) The compensation is reasonable and consistent with that paid for similar work in other activities of State or local government;
    - (2) The employment arrangement is approved and proper under State or local regulations (no conflict of interest); and
    - (3) The time and/or services provided is supported by adequate documentation.

- b. To avoid problems arising from overtime, holiday pay, night differential, or related payroll regulations, such employment arrangements should normally be made by the recipient or subrecipient directly with the individual, unless there has been a transfer or loan of the employee for which his regular and overtime services provided are to be charged to or reimbursed by the recipient or subrecipient. Overtime and night differential payments are allowed only to the extent the payment for such services is in accordance with the policies of the State or unit(s) of local government and has the approval of the State or the awarding agency, whichever is applicable.

**Note:** The overtime premium should be prorated among the jobs and not charged exclusively to the awarding agency funds.

- c. Payment of these premiums will be for work performed by award or subaward employees in excess of the established work week (usually 40 hours). Payment of continued overtime is subject to periodic review by the awarding agency.
3. **Award Purposes and Dual Compensation.** Charges of the time of State and local government employees assigned to assistance programs may be reimbursed to the extent they are directly and exclusively related to the award or proper for inclusion in the indirect cost base.

**Note:** In no case is dual compensation allowable. That is, an employee of a unit of government may not receive compensation from their unit or agency of government AND from an award for a single period of time (e.g., 1 p.m. to 5 p.m.), even though such work may benefit both activities.

**Conferences and Workshops.** Allowable costs may include:

- Conference or meeting arrangements;
- Publicity;
- Registration;
- Salaries of personnel;
- Rental of staff offices ;
- Conference space;
- Recording or translation services;
- Postage;
- Telephone charges; and
- Travel expenses (including transportation and subsistence for speakers or participants).

**Travel.** Travel costs are allowable as expenses by employees who are in travel status on official business. These costs must be in accordance with Federal or an organizationally-approved travel policy.

1. **Domestic Travel.** Prior approval is required for domestic travel by educational institutions charged to any award that will cause the approved budgeted amount identified for such travel to be exceeded by \$500 or 25 percent of the approved amount, whichever

is greater. Recipients may follow their own established travel rates, if they are more restrictive than the Federal travel rates.. If a recipient does not have a written travel policy, the recipient must abide by the Federal travel policy. Subrecipients of States must follow their State's established travel policy. If a State does not have an established travel policy, the subrecipient must abide by the Federal travel rates.

2. **Foreign Travel** includes any travel outside of Canada and the United States and its territories and possessions. However, for a recipient or subrecipient located outside Canada and the United States and its territories and possessions, foreign travel means travel outside that country. Prior approval is required for all foreign travel.

**Space.** The cost of space in privately- or publicly-owned buildings used for the benefit of the program is allowable subject to the conditions stated below:

- The total cost of space may not exceed the rental cost of comparable space and facilities in a privately-owned building in the same locality.
  - The cost of space procured for program usage may not be charged to the program for periods of non-occupancy, without authorization of the Federal awarding agency.
1. **Rental Cost.** The rental cost of space in a privately-owned building is allowable. Rent cannot be paid if the building is owned by the grantee or if the grantee has a substantial financial interest in the property. However, the cost of ownership is an allowable expense. Similar costs for a publicly-owned building are allowable where "rental rate" systems, or equivalent systems that adequately reflect actual costs, are employed. Such charges must be determined on the basis of actual cost (including depreciation based on the useful life of the building, operation and maintenance, and other allowable costs). Where these costs are included in rental charges, they may not be charged elsewhere. No costs will be included for purchases or construction that were originally financed by the Federal government.
  2. **Maintenance and Operation.** The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations, and the like are allowable to the extent they are not otherwise included in rental or other charges for space.
  3. **Rearrangements and Alterations.** Costs incurred for rearrangement and alteration of facilities required specifically for the award program or those that materially increase the value or useful life of the facility are allowable when specifically approved by the awarding agency.
  4. **Depreciation and Use Allowances on Publicly-Owned Buildings.** Depreciation or a use allowance on idle or excess facilities is NOT ALLOWABLE, except when specifically authorized by the Federal awarding agency.

5. **Occupancy of Space Under Rental-Purchase or a Lease with Option-to-Purchase Agreement.** The cost of space procured under such arrangements is allowable when specifically approved by the awarding agency.

This type of arrangement may require application of special matching share requirements under construction programs.

**Printing** shall be construed to include and apply to the process of composition, plate-making, presswork, binding, and microfilm; the equipment, as classified in the tables in Title II of the Government Printing and Binding Regulations, published by the Joint Committee on Printing, Congress of the United States, and as used in such processes; or the end items produced by such processes and equipment. Pursuant to the Government Printing and Binding Regulations, no project may be awarded primarily or substantially for the purpose of having material printed for the awarding agency. The Government Printing and Binding Regulations allow:

1. **Issuance.** The issuance of a project for the support of non-government publications, provided such projects were issued pursuant to an authorization of law and were not made primarily or substantially for the purpose of having material printed for the awarding agency.
2. **Publications by Recipients/Subrecipients.** The publication of findings by recipients/subrecipients within the terms of their project provided that such publication is not primarily or substantially for the purpose of having such findings printed for the awarding agency.

**Publication** shall be construed as the initiation of the procurement of writing, editing, preparation of related illustration material from recipients/subrecipients, or the internal printing requirements of the recipient/subrecipient necessary for compliance with the terms of the project. However, individuals are authorized to make or have made by any means available to them, without regard to the copyright of the journal, and without royalty a single copy of any such article for their own use.

Project directors are encouraged to make the results and accomplishments of their activities available to the public. A recipient/subrecipient who publicizes project activities and results shall adhere to the following:

1. Responsibility for the direction of the project activity should not be ascribed to the awarding agency. The publication shall include the following statement: "The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice." The receipt of awarding agency funding does not constitute official recognition or endorsement of any project. A separate application for Official Recognition may be filed with the awarding agency.
2. All materials publicizing or resulting from award activities shall contain an acknowledgement of the awarding agency assistance. An acknowledgement of support shall be made through use of the following or comparable footnote: "This project was

supported by Award No. \_\_\_\_\_ awarded by the \_\_\_\_ (name of specific office/bureau) \_\_\_\_, Office of Justice Programs." If the awarding agency is not OJP, language should reflect the proper agency name. The Americans with Disabilities Act (ADA) technical assistance grant program and the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) grant program are awarded through the Civil Rights Division, DOJ.

3. A recipient/subrecipient is expected to publish or otherwise make widely available to the public, as requested by the awarding agency, the results of work conducted or produced under an award.
4. All publication and distribution agreements with a publisher shall include provisions giving the Federal government a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal government purposes. (See Copyrights section of Chapter 6 of this Guide.) The agreements with a publisher should contain information on the awarding agency requirements.
5. Unless otherwise specified in the award, the recipient/subrecipient may copyright any books, publications, films, or other copyrightable material developed or purchased as a result of award activities. Copyrighted material shall be subject to the same provisions of the Federal government.
6. The recipient/subrecipient shall be permitted to display the official awarding agency LOGO in connection with the activities supported by the award. In this respect, the LOGO shall appear in a separate space, apart from any other symbol or credit. The words "Funded/Funded in part by OJP" shall be printed as a legend, either below or beside the LOGO, each time it is displayed. Use of the LOGO must be approved by the awarding agency.
7. The recipient/subrecipient shall submit a publication and distribution plan to the awarding agency before materials developed under an award are commercially published or distributed. The plan shall include a description of the materials, the rationale for commercial publication and distribution, the criteria to be used in the selection of a publisher, and, to assure reasonable competition, the identification of firms that will be approached. Prior agency approval of this plan is required for publishing project activities and results when Federal funds are used to pay for the publication.

**Duplication.** A requirement for a recipient/subrecipient to duplicate less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, of its findings for the awarding agency will not be deemed to be printing primarily or substantially for the awarding agency (e.g., 5,000 copies of five pages, etc.). For the purpose of this paragraph, such pages may not exceed a maximum image size of 10 3/4" by 14 1/4".

**Production.** A requirement for a recipient/subrecipient to produce less than 250 duplicates from original microfilm will not be deemed to be printing primarily or substantially for the awarding agency. Microfilm is defined as one roll of microfilm 100 feet in length or one microfiche.

**Other Allowable Costs.**

1. **Software development** is an allowable cost and may be expensed in the period incurred with no dollar limitation.
2. **Depreciation** is an allowable cost and an accelerated method should not be used.
3. **Post-employment benefits** are allowable costs if funded in accordance with actuarial requirements. Funds must be paid within six months of recordation.



## NOTES

## NOTES

## Chapter 8: Confidential Funds

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### **Highlights** of Chapter:

- ◆ Approval Authority
- ◆ Confidential Funds Certification
- ◆ Written Procedures
- ◆ Informant Files
- ◆ RISS Program
- ◆ Accounting and Control Procedures

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These provisions apply to all awarding agency professional personnel, recipients, and subrecipients involved in the administration of grants containing confidential funds. Confidential funds are those monies allocated to:

**Purchase of Services (P/S).** This category includes travel or transportation of a non-Federal officer or an informant; the lease of an apartment, business front, luxury-type automobiles, aircraft or boat, or similar effects to create or establish the appearance of affluence; and/or meals, beverages, entertainment, and similar expenses (including buy money and flash rolls, etc.) for undercover purposes, within reasonable limits.

**Purchase of Evidence (P/E).** This category is for the purchase of evidence and/or contraband, such as narcotics and dangerous drugs, firearms, stolen property, counterfeit tax stamps, etc., required to determine the existence of a crime or to establish the identity of a participant in a crime.

**Purchase of Specific Information (P/I).** This category includes the payment of monies to an informant for specific information. All other informant expenses would be classified under P/S and charged accordingly.

These funds should only be allocated when:

1. The particular merits of a program/investigation warrant the expenditure of these funds.
2. Requesting agencies are unable to obtain these funds from other sources.

Confidential funds are subject to prior approval. Such approval will be based on a finding that they are a reasonable and necessary element of project operations. In this regard, the approving agency must also ensure that the controls over disbursement of confidential funds are adequate to safeguard against the misuse of such funds.

**Approval Authority.** The **APPROVING AUTHORITY** for the **ALLOCATION** of confidential funds is:

1. The awarding agency for block/formula grantees and categorical grantees (including Regional Information Sharing System (RISS) program projects).

2. The recipient agency for block/formula subrecipients.

**Confidential Funds Certification.** A signed certification that the project director has read, understands, and agrees to abide by these provisions is required from all projects that are involved with confidential funds from either Federal or matching funds. The signed certification must be submitted at the time of grant application.

### SAMPLE CERTIFICATION CONFIDENTIAL FUNDS CERTIFICATION

This is to certify that I have read, understand, and agree to abide by all of the conditions for confidential funds as set forth in the effective edition of OJP's Financial Guide.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Project Director

Grant No. \_\_\_\_\_

**Written Procedures.** Each project and RISS member agency authorized to disburse confidential funds must develop and follow internal procedures which incorporate the following elements. Deviations from these elements must receive prior approval of the awarding agency.

1. **Imprest Fund.** The funds authorized will be established in an imprest fund which is controlled by a bonded cashier.
2. **Advance of Funds.** The supervision of the unit to which the imprest fund is assigned must authorize all advances of funds for the purchase of information. Such authorization must specify the information to be received, the amount of expenditures, and the assumed name of informant.
3. **Informant Files.** Information files are confidential files of the true names, assumed names, and signature of all informants to whom payments of confidential expenditures have been made. To the extent possible, pictures and/or fingerprints of the information payee should also be maintained. In the RISS program, the informant files are to be maintained at the member agencies only. Project Headquarters may maintain case files.
4. **Cash Receipts.**
  - a. The cashier shall receive from the agent or officer authorized to make a confidential payment a receipt for cash advanced to him/her for such purposes.
  - b. The agent or officer shall receive from the information payee a receipt for cash paid to him/her.

**SAMPLE RECEIPT OF  
INFORMANT PAYEE RECEIPT**

For and in consideration of the sale and delivery to the State, County, or City of \_\_\_\_\_  
\_\_\_\_\_ of information or evidence identified as follows: \_\_\_\_\_

\_\_\_\_\_. I hereby acknowledge receipt of \$ (numerical and word amount entered by  
payee) paid to me by the State, County, or City of \_\_\_\_\_.

Date: \_\_\_\_\_ Payee: \_\_\_\_\_  
(Signature)

Case Agent/Officer: \_\_\_\_\_  
(Signature)

Witness: \_\_\_\_\_  
(Signature)

Case or Reference: \_\_\_\_\_

5. **Receipt for Purchase of Information.** An information payee receipt shall identify the exact amount paid to and received by the information payee on the date executed. Cumulative or anticipatory receipts are not permitted. Once the receipt has been completed, **no alteration is allowed**. The agent shall prepare an information payee receipt containing the following information:
- a. The jurisdiction initiating the payment;
  - b. A description of the information/evidence received;
  - c. The amount of payment, both in numerical and word form;
  - d. The date on which the payment was made;
  - e. The signature of the informant payee;
  - f. The signature of the case agent or officer making payment;
  - g. The signature of at least one other officer witnessing the payment; and
  - h. The signature of the first line supervisor authorizing and certifying the payment.
6. **Review and Certification.** The signed receipt from the informant payee with a memorandum detailing the information received shall be forwarded to the agent or officer in charge. The agent or officer in charge shall compare the signatures. He/she shall also evaluate the information received in relation to the expense incurred and his/her evaluation remarks in the report of the agency or officer who made the

expenditure from the imprest fund. The certification will be witnessed by the agent or officer in charge on the basis of the report and informant payee's receipt.

7. **Reporting of Funds.** Each project shall prepare a reconciliation report on the imprest fund on a quarterly basis. Information to be included in the reconciliation report will be the assumed name of the informant given and to what extent this information contributed to the investigation. Grantees shall retain the reconciliation report in their files and have available for review. Subrecipients shall retain the reconciliation report in their files and have available for review unless the State agency requests that the report be submitted to them on a quarterly basis.
8. **Record and Audit Provisions.** Each project and member agency must maintain specific records of each confidential fund transaction. At a minimum, these records must consist of all documentation concerning the request for funds, processing (should include the review and approval/disapproval), modifications, closure or impact material, and receipts and/or other documentation necessary to justify and track all expenditures. Refer to the documentation under Information Files for a list of documents which should be in the informant files. In projects where grant funds are used for confidential expenditures, it will be understood that all of the above records, except the true name of the informant, are subject to the record and audit provisions of awarding agency legislation.

### **Informant Files.**

1. **Security.** A separate file should be established for each informant for accounting purposes. Informant files should be kept in a separate and secure storage facility, segregated from any other files, and under the exclusive control of the office head or an employee designated by him. The facility should be locked at all times when unattended. Access to these files should be limited to those employees who have a necessary legitimate need. An informant file should not leave the immediate area, except for review by a management official or the handling agent, and should be returned prior to the close of business hours. Sign-out logs should be kept indicating the date, information number, time in and out, and the signature of the person reviewing the file.
2. **Documentation.** Each file should include the following information:
  - a. Informant Payment Record, kept on top of the file. This record provides a summary of informant payments.
  - b. Informant Establishment Record, including complete identifying and locating data, plus any other documents connected with the informant's establishment.
  - c. Current photograph and fingerprint card (or FBI/State Criminal Identification Number).
  - d. Agreement With Cooperating Individual.

- e. Receipt for Purchase of Information.
- f. Copies of all debriefing reports (except for the Headquarters case file).
- g. Copies of case initiation reports bearing on the utilization of the informant (except for the Headquarters case file).
- h. Copies of statements signed by the informant (unsigned copies will be placed in appropriate investigative files).
- i. Any administrative correspondence pertaining to the informant, including documentation of any representations made on his behalf or any other non-monetary considerations furnished.
- j. Any deactivation report or declaration of an unsatisfactory informant.

## **RISS Program.**

### **1. Processing Procedures.**

- a. **Authorization of Disbursement.** The project policy board establishes the maximum level the project director may authorize in disbursements to member agencies. The project director, or his designee, may authorize payment of funds to member agencies and their officers for the purchase of information and evidence up to this maximum level. The project director must refer all requests for amounts in excess of the maximum level to the project policy board for review and approval.
- b. **Request of Funds.** Any member agency requesting funds from the project will do so in writing. The request must contain the amount needed, the purpose of the funds, and a statement that the funds requested are to be used in furtherance of the project's objectives. Additionally, the agency must provide a statement agreeing to establish control, accounting, and reporting procedures which closely resemble the procedures outlined in this chapter.
- c. **Processing the Request.** The project director, or his designee when appropriate, will approve or disapprove the request. If approved, the request will be forwarded to the project cashier who will record the request and transmit the monies, along with a receipt form, to the member agency. Upon receipt of the monies, the member agency will immediately sign and return the receipt form to the cashier.
- d. **Records.** For all transactions involving the purchase of information, each project must maintain on file the assumed name and signature of all informants to whom member agencies make payments from project funds.
- e. **Processing the Informant Payee Receipt.** The original signed informant payee receipt, with a summary of the information received, will be forwarded to the

project by the member agency. The project will then authenticate the receipt by comparing the signature of the informant payee on the receipt with the signature maintained by the project in a confidential file. If discrepancies exist, the project director, or his designee, will take immediate steps to notify the member agency and ascertain the reason(s) for the discrepancies. The member agency must forward written justification to address the discrepancies of the project. If satisfactory, the justification will be attached to the informant payee receipt.

2. **Informant Management and Utilization.** All persons who will be utilized as informants should be established as such. The specific procedures required in establishing a person as an informant may vary from jurisdiction to jurisdiction but, at a minimum, should include the following:
  - a. Assignment of an informant code name to protect the informant's identity.
  - b. An informant code book controlled by the office head or his/her designee containing:
    - (1) Informant's code name;
    - (2) Type of informant (i.e., informant, defendant/informant, restricted-use/informant);
    - (3) Informant's true name;
    - (4) Name of establishing law enforcement officer;
    - (5) Date the establishment is approved; and
    - (6) Date of deactivation.
  - c. Establish each informant file in accordance with Documentation, Item 2, under Informant Files.
  - d. For each informant in an active status, the agent should review the informant file on a quarterly basis to assure it contains all relevant and current information. Where a MATERIAL fact that was earlier reported on the Establishment Record is no longer correct (e.g., a change in criminal status, means of locating him/her, etc.), a supplemental establishing report should be submitted with the correct entry.
  - e. All informants being established should be checked in all available criminal indices. If a verified FBI number is available, request a copy of the criminal records from the FBI. Where a verified FBI number is not available, the informant should be finger printed with a copy sent to the FBI and appropriate State authorities for analysis. The informant may be utilized on a provisional basis while awaiting a response from the FBI.



### 3. **Payment to Informants.**

- a. Any person who is to receive payments charged against PE/PI funds should be established as an informant. This includes persons who may otherwise be categorized as sources of information or informants under the control of another agency. The amount of payment should be commensurate with the value of services and/or information provided and should be based on the following factors:
  - (1) The level of the targeted individual, organization, or operation;
  - (2) The amount of the actual or potential seizure; and
  - (3) The significance of the contribution made by the informant to the desired objectives.
- b. There are various circumstances in which payments to informants may be made:
  - (1) Payments for Information and/or Active Participation. When an informant assists in developing an investigation, either through supplying information or actively participating in it, he/she may be paid for his/her service either in a lump sum or in staggered payments. Payments for information leading to a seizure, with no defendants, should be held to a minimum.
  - (2) Payment for Informant Protection. When informant needs protection, law enforcement agencies may absorb the expenses of relocation. These expenses may include travel for the informant and his/her immediate family, movement and/or storage of household goods, and living expenses at the new location for a specific period of time (not to exceed six months). Payments for these expenses may be either lump sum or as they occur and should not exceed the amounts authorized law enforcement employees for these activities.
  - (3) Payments to Informants of Another Agency. To use or pay another agency's informant, he/she should be established as an informant. These payments should not be a duplication of a payment from another agency; however, sharing a payment is acceptable.
- c. Documentation of payments to informants is critical and should be accomplished on a receipt for purchase of information. Payment should be made and witnessed by two law enforcement officers and authorized payment amounts should be established and reviewed by at least the first line supervisory level. In unusual circumstances, a non-officer employee or an officer of another law enforcement agency may serve as a witness. In all instances, the original signed receipt must be submitted to the project director for review and recordkeeping.

**Accounting and Control Procedures.** Special accounting and control procedures should govern the use and handling of confidential expenditures, as described below:

1. It is important that expenditures which conceptually should be charged to PE/PI/PS are in fact so charged. It is only in this manner that these funds may be properly managed at all levels and accurate forecasts of projected needs be made.
2. Each law enforcement entity should apportion its PE/PI/PS allowance throughout its jurisdiction and delegate authority to approve PE/PI/PS expenditures to those offices, as it deems appropriate.
3. Headquarters management should established guidelines authorizing offices to spend up to a predetermined limit of their total allowance on any one investigation.
4. In excising his/her authority to approve these expenditures, the supervisor should consider:
  - (1) The significance of the investigation;
  - (2) The need for this expenditure to further that investigation; and
  - (3) Anticipated expenditures in other investigations. Funds for PE/PI/PS expenditures should be advanced to the officer for a specific purpose. If they are not expended for that purpose, they should be returned to the cashier. They should not be used for another purpose without first returning them and repeating the authorization and advance process based on the new purpose.
5. Funds for a PE/PI/PS expenditure should be advanced to the officer on a suitable receipt form. A receipt for purchase of information or a voucher for purchase of evidence should be completed to document funds used in the purchase of evidence or funds paid or advanced to an informant.
6. For security purposes, there should be a 48-hour limit on the amount of time funds advanced for PE/PI/PS expenditure may be held outstanding. If it becomes apparent at any point with the 48-hour period that the expenditure will not materialize, then the funds should be returned to the advancing cashier as soon as possible. An extension to the 48-hour limit may be granted by the level of management that approved the advance. Factors to consider in granting such an extension are the amount of funds involved, the degree of security under which the funds are being held, how long an extension is required, and the significance of the expenditure. Such extensions should be limited to 48 hours. Beyond this, the funds should be returned and readvanced, if necessary. Regardless of circumstances, within 48 hours of the advance, the fund cashier should be presented with either the unexpended funds, an executed voucher for payment for information or purchase of evidence, or written notification by management that an extension has been granted.
7. Purchase of Services (P/S) expenditures, when not endangering the safety of the officer or informant, need to be supported by canceled tickets, receipts, lease agreements, etc.

If not available, the office head, or his immediate subordinate, must certify that the expenditures were not obtained.

**NOTES**

## Chapter 9: Subawards

**Subawards of Discretionary Project-Supported Effort.** None of the principal activities of the project-supported effort shall be subawarded to another organization without specific prior approval by the awarding agency. Where the intention to make subawards is made known at the time of application, the approval may be considered given, if these activities are funded as proposed.

All such arrangements must be formalized in a contract or other written agreement between the parties involved. The contract or agreement must, at a minimum, include:

- Activities to be performed;
- Time schedule;
- Project policies;
- Flow-through requirements that are applicable to the subrecipient;
- Other policies and procedures to be followed;
- Dollar limitation of the agreement; and
- Cost principles to be used in determining allowable costs.

The contract or other written agreement must not affect the recipient's overall responsibility for the duration of the project and accountability to the Federal government.

**NOTES**

## Chapter 10: Procurements Under Awards of Federal Assistance

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### Highlights of Chapter:

- ◆ Procurement Standards
- ◆ Construction Requirements
- ◆ Professional Services

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### Procurement Standards.

1. **General.** A State shall follow the same policies and procedures it uses for procurement from its non-Federal funds. The State shall ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Subrecipients of States shall follow the procurement requirements imposed upon them by the States. Other recipients and subrecipients will follow OMB Circular A-110.
2. **Standards.** Recipients and subrecipients shall use their own procurement procedures and regulations, provided that the procurement conforms to applicable Federal law and the standards identified in the Procurement Standards Sections of 28 CFR Parts 66 and 70. Any recipient/subrecipient whose procurement system has been certified by a Federal agency is not subject to prior approval requirements of 28 CFR Parts 66 and 70. The awarding agency's prior approval will only be required for areas beyond limits of the recipient/subrecipient certification.
3. **Adequate Competition.** All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole source procurements in excess of \$100,000 must receive prior approval of the awarding agency. Interagency agreements between units of government are excluded from this provision.
4. **Non-competitive Practices.** The recipient/subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFPs) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. An exemption to this regulation requires the prior approval of the awarding agency and is only given in unusual circumstances, such as when a non-profit organization is acting as the agent for the State or local unit of government. Any request for exemption must be submitted in writing to the awarding agency.

**Construction Requirements.** The following policies and procedures relevant to construction are applicable to recipients/subrecipients. For the purpose of determining the appropriate fund ratios for construction projects, refer to the legislation which authorizes the construction.

1. **Under the Juvenile Justice Act (OJJDP),** construction means the acquisition, expansion, remodeling, and alteration of existing buildings and initial equipment of any such buildings or any combination of such activities (including architects' fees, but not the cost of acquisition of land for buildings).
2. **Under the Boot Camp Initiative,** construction means the erection, acquisition, renovation, repair, remodeling or expansion of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment.

Initial equipment includes heating, plumbing, air conditioning, and electrical services and similar fixed equipment items but does not include equipment not inherently a part of the facility, such as office furniture and equipment.

3. **Qualifications.** When considering the use of agency funds for construction, recipients/subrecipients must be cognizant of the following qualifications as to their use:
  - a. Costs which are incurred as an incidental and necessary part of a program and which are for renovation, remodeling, maintenance, and repair costs which do not constitute capital expenditures ARE generally allowable but may NOT exceed 10 percent of total project costs.
  - b. The total cost of a construction project includes the cost of site preparation, including demolition of existing structures. Any proceeds realized for site preparation activities (e.g., salvage value of structures demolished or the proceeds from sale of timber) shall be applied to the project (program income) and used to reduce the total cost of the construction project.
  - c. Payment of relocation costs shall be in accordance with the "Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970," 42 USC 4601, et seq.
4. **Special Fiscal Conditions for Construction Projects.** Funds for construction or facility improvement, which require awarding of a contract amounting to \$100,000 or more to a private company or individual, shall require:
  - a. A bid guarantee equivalent to 5 percent of the bid price. The bid guarantee must consist of a firm commitment, such as bid bond, certified check, or negotiable instrument accompanying a bid, as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified after the forms are presented to him/her.
  - b. A performance bond on the part of the contractor for 100 percent of the contract price. "Performance bond" means a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
  - c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to ensure



payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

5. **Payment of Money Guaranteed by Federal Government.** Where the Federal government guarantees the payment of money borrowed by a recipient or subrecipient, the State may, at its discretion, require adequate bonding and insurance if the bonding or insurance requirements of the recipient or subrecipient are not deemed sufficient to adequately protect the interest of the Federal government. In those instances where construction of facility improvements for less than \$100,000 are contemplated and the subrecipient does not have any requirements for bid guarantees, performance bonds, and payments bonds, the State will impose State requirements on the subrecipients.
6. **Special Requirements for Juvenile Justice Act Construction Projects.**
  - a. Matching Requirement. Juvenile Justice Act funds awarded under Title II are limited to 50 percent of the cost of construction.
  - b. Source and Types of Funds. Match for construction programs and/or projects awarded to public agencies must consist of cash appropriated for the use of the recipient public agency by the awarding agency or contributed by a private agency or individual.
7. **Use of Funds.**
  - a. Construction programs and projects funded with the Juvenile Justice Act Title II funds are limited to construction of innovative community-based facilities for less than 20 people which, in the judgment of the Administrator, are necessary to carry out Part B purposes. Consequently, advance approval for all formula grant construction expenditures is required either in the approved plan or in subsequent correspondence. Facilities include both buildings and parts of sections of a building to be used for a particular program or project.
  - b. Erection of new buildings is not permitted with Juvenile Justice Act Title II funds.
  - c. Use of Juvenile Justice Act Title II funds for construction is equally applicable to programs or projects using Formula or Special Emphasis funds.

**Professional Services.** The customary fixed fee or profit allowance in cost-type contracts may not exceed 10 percent of the total estimated costs. This is applicable to contracts under grants.

## NOTES

## Chapter 11: Reporting Requirements

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### Highlights of Chapter:

- ◆ Financial Status Reports
- ◆ Program Reports

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**Financial Status Reports.** These reports contain the actual expenditures for the reporting period and cumulative for the award. The Financial Status Report (FSR), also known as the SF 269A, is due quarterly on the 45th day following the end of the calendar quarter. Even when there have been no outlays, a report containing zeros must be submitted to OC. The final report is due 120 days after the end date of the award.

1. **Turnaround Document.** In lieu of using the SF 269A report, recipients may satisfy the financial reporting requirements by completing a Financial Status Report Turnaround Document. This document is a facsimile of the SF 269A, Financial Status Report, created with information extracted from the awarding agency computer files and sent directly to each recipient. Pertinent information, such as recipient name and address, award number, and the previously submitted financial information (if any), is printed on the form by the computer. If a “Turnaround Document” is not used or received, the SF 269A must be submitted.
2. **Electronic Reporting.** SF 269A reports may be submitted electronically when the recipient receives funding through LOCES.
3. **Penalty for Non-Compliance.** Future awards and fund drawdowns may be withheld if the Financial Status Report information is delinquent.
4. **Subawards.** In addition to reporting outlays and obligations, the State must report to the awarding agency the total Federal funds subawarded to both State agencies and local governments for the award being reported. This information is required on all block and formula awards and shall be reported in item 12 of the SF 269A or the Turnaround Document.

**Program Reports.** These reports are prepared in a narrative fashion in order to present information relevant to the performance of a plan, program, or project.

1. **Crime Control Act Block and Formula Funds -- Annual Performance Reports.** The States shall submit annually to the Bureau of Justice Assistance (BJA) a report which contains information as required by the legislation and the Director. This report must be submitted to BJA no later than December 31 for the activities undertaken and results achieved during the prior Federal fiscal year.
2. **Narrative Report for Juvenile Justice Act (JJA) Formula Funds.** The reporting requirement of Sections 223(2) and 223(a)(22) may be met through the submission of the Annual Plan and its updates. The Annual Plan may provide a performance report

on the previously planned activities utilizing JJA formula funds. Instructions for the preparation of the SF 424 by the State are contained in 28 CFR Part 31 and in the JUVENILE JUSTICE AND DELINQUENCY PREVENTION AWARD APPLICATION KIT. These documents are available from OJJDP.

3. **Crime Victims Compensation Program.** A State receiving funds for a crime victims compensation program will be required to submit an annual performance report on the effect the Federal funds had on the program. The report will be due by November 30 each year and must report on activities for the prior Federal fiscal year (October 1 through September 30). Please see the Crime Victims Compensation Guidelines for specific reporting instructions.
4. **Crime Victims Assistance Program.** Crime victims assistance program reporting requirements are set forth in the Victims Assistance Award Program Guidelines. The State crime victims assistance agency receiving Federal victims assistance award funds is required to submit a performance report 90 days after the end of each award. The performance report will provide information on the effect the Federal funds have had on services to crime victims in the State and serve as a basis for information prepared for the Report to Congress on the Victims of Crime Act (VOCA).
5. **Categorical Assistance Progress Report, OJP Form 4587/1.** This report is prepared twice a year and is used to describe the performance of activities or the accomplishment of objectives as set forth in the approved award application.

**Reporting Period.** Progress reports must be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31 for the life of the award. The awarding agency may opt, by special condition to the award, to combine the first report into the subsequent reporting period. For example, if the begin date on the award is June 1, the awarding agency may opt to receive the first report 30 days after the December 31 reporting period.

6. **Special Reports.** In the review and approval process for plans and applications, it is sometimes necessary for the awarding agency to require that special or unique conditions be met in order to make an award. These special conditions will vary from award to award; however, acceptance of the award by the recipient/subrecipient constitutes an agreement that the conditions will be met either prior to the project or during the course of the award period. When this is the case, special reports on the meeting of these conditions are required for submittal to the awarding agency. They are prepared free form; however, the timing, content, and process for their submittal are detailed in the award package.

## NOTES

## NOTES

## Chapter 12: Retention and Access Requirements for Records

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### Highlights of Chapter:

- ◆ Retention of Records
- ◆ Maintenance of Records
- ◆ Access to Records

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**Retention of Records.** In accordance with the requirements set forth in 28 CFR Parts 66 and 70, all financial records, supporting documents, statistical records, and all other records pertinent to award shall be retained by each organization for AT LEAST THREE YEARS following the closure of their most recent audit report. Retention is required for purposes of Federal examination and audit. Records may be retained in an automated format. State or local governments may impose record retention and maintenance requirements in addition to those prescribed.

1. **Coverage.** The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of all awards, applications, and required recipient financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the award, whether they are employed full-time or part-time. Time and effort reports are also required for consultants.
2. **Retention Period.** The three-year retention period starts from the date of the submission of the closure of the single audit report which covers the grant period. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it or until the end of the regular three-year period, whichever is later.

**Maintenance of Records.** Recipients of funds are expected to see that records of different Federal fiscal periods are separately identified and maintained so that information desired may be readily located. Recipients are also obligated to protect records adequately against fire or other damage. When records are stored away from the recipient's principal office, a written index of the location of records stored should be on hand and ready access should be assured.

**Access to Records.** The awarding agency includes the funding agency, the Federal agency, the DOJ Office of the Inspector General, the Comptroller General of the United States, or any of their authorized representatives, who shall have the right of access to any pertinent books, documents, papers, or other records of recipients which are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts. The right of access must not be limited to the required retention period but shall last as long as the records are retained.

## NOTES



## Chapter 13: **Sanctions**

**Sanctions.** If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the awarding agency may take one or more of the following actions, as appropriate in the circumstances. This authority also extends to the recipient agency.

1. Temporarily withhold cash payments pending correction of the deficiency by the recipient.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the current award.
4. Withhold further awards for the project or program.
5. Take other remedies that may be legally available.

## NOTES

## Chapter 14: **Termination for Convenience**

**Termination for Convenience.** The awarding agency may terminate any project, in whole or in part, when a recipient materially fails to comply with the terms and conditions of an award, which includes the unauthorized use of payment access codes by someone other than the grantee of record, or when the recipient and the awarding agency agree to do so. In the event that a project is terminated, the awarding agency will:

1. Notify the recipient in writing of its decision;
2. Specify the reason;
3. Afford the recipient/subrecipient a reasonable time to terminate project operations; and
4. Request the recipient seek support from other sources.

A project which is prematurely terminated will be subject to the same requirements regarding audit, recordkeeping, and submission of reports as a project which runs for the duration of the project period. Refer to 28 CFR Part 18 for appeal rights in event of termination.

## NOTES

## Chapter 15: Costs Requiring Prior Approval

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### Highlights of Chapter:

- ◆ Responsibility for Prior Approval
- ◆ Procedures for Requesting Prior Approval
- ◆ Costs Requiring Prior Approval
  - Automatic Data Processing Equipment
  - Criminal Justice Information and Communication Systems
  - Equipment and Other Capital Expenditures
  - Preagreement Costs
  - Proposal Costs
  - Consultant Rates
  - Interest Expense

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Written approval is required for those costs specified in OMB Circulars A-21, A-87, and A-122 as "Costs Allowable With Approval of Awarding Agency" or costs which contain special limitations.

Where prior approval is required in this section, the awarding agency will be the approval authority for all discretionary recipients and for the State when it is the implementing recipient. Where prior approval authority for subrecipients is required, it will be vested in the State unless specified as being "RETAINED BY THE FEDERAL AWARDOING AGENCY," as identified below. Subrecipient requests for awarding agency approval should be submitted through the State for a block or formula award.

The intention of the awarding agency is not to require approval of all changes within the listed cost categories, but only for those aspects or elements which specifically require prior approval. Also, the establishment of dollar expenditure levels in this chapter is intended to furnish blanket approval for modest project-related outlays. Costs above such levels may also receive approval upon submission of appropriate data and justification.

### Responsibility for Prior Approval.

1. **Discretionary Awards.** The awarding agency reviews for approval all costs identified in this section when the recipient is the direct beneficiary of the goods or services to be purchased or supplied.
2. **Block/Formula Awards.** The State reviews for approval all costs identified in this section for subrecipients of block/formula funds where the State is the recipient but not the implementing agency.

**Procedures for Requesting Prior Approval.** Requests must be in writing and justified with an explanation to permit review of the allowability. They may be submitted:

1. Through inclusion in the budget or other components of an award or subaward application; or
2. As a separate written request to the appropriate authority as described above.

**Costs Requiring Prior Approval.**

1. **Automatic Data Processing (ADP) Equipment and Software.** Awards may include provisions for procurement of ADP equipment. The application will be written in a manner consistent with maximum open and free competition in the procurement of hardware and services. Brand names will not normally be specified.
  - a. Digital, analog, or hybrid computer equipment and automated fingerprint equipment.
  - b. Auxiliary or accessorial equipment, such as data communications terminals, source data automation recording equipment (e.g., optical character recognition equipment, and other data acquisition devices) and data output equipment (e.g., digital plotters, computer output microfilms), etc., to be used in support of digital, analog, or hybrid computer equipment, whether cable connected, wire connected, radio connected, or self-standing and whether selected or acquired with a computer or separately.
  - c. Data transmission or communications equipment that is selected and acquired solely or primarily for use with a configuration of ADP equipment which includes an electronic computer.
  - d. Qualification and Exclusions.
    - (1) Analog computers are covered only when being used as equipment peripheral to a digital computer.
    - (2) Items of ADP equipment that are (a) physically incorporated in a weapon, or (b) manufactured under a development contract ARE EXCLUDED from the above definition.
    - (3) Accessories, such as tape cleaners, tape testers, magnetic tapes, paper tapes, disk packs, and the like ARE EXCLUDED.
2. **Criminal justice information and communication systems** that are to be funded shall be designed and programmed to maximize the use of standard and readily available computer equipment and programs. (Identification of such systems will be made on a case-by-case basis.) Applicants involved in the development of criminal justice information systems should utilize the past experience of those agencies which have successfully implemented such systems. A detailed requirements analysis should be

performed and a search for existing software that could meet the identified requirements should be made before new software is developed. If new software is developed, it shall be designed and documented so that other criminal justice agencies will be able to use it with minor modifications and at minimum cost. A recipient or subrecipient shall request approval prior to arranging for copyright of computer software and programs.

- a. Prior approval is NOT REQUIRED for the LEASE or RENTAL of such equipment; nevertheless, assurance must be provided that leases or rentals greater than \$100,000 are obtained in accordance with Federal procurement standards.
  - b. Where the amount of the acquisition exceeds \$100,000, prior approval from the awarding agency is REQUIRED for the acquisition of equipment (outright purchase, lease-purchase agreement, or other method of purchase).
  - c. A review of ADP equipment procurement shall be REQUIRED and should include a review of the description of the equipment to be purchased. This review shall be documented in writing for the file and shall require the awarding agency to certify that the procurement is consistent with the following requirements:
    - (1) The ADP equipment of the type to be purchased was identified within the award applications and is necessary and sufficient to meet the project goals.
    - (2) The ADP equipment procurement is in compliance with existing Federal agency, State, and local laws and regulations.
    - (3) A purchase/lease comparison has been conducted demonstrating that it is more advantageous to purchase rather than lease the ADP equipment under consideration.
    - (4) If software development is involved, it has been demonstrated that computer software already produced and available will not meet the needs of the award.
    - (5) If the ADP equipment procurement is to be sole source and that procurement is more than \$100,000, then documentation must have been submitted to justify the action.
  - d. An ADP Procurement Review Form (Suggested Format -- Sample Only) may be obtained by contacting the DOJ Response Center at 1-800 421-6770. This form is a recommended form for documenting an ADP equipment procurement review and the form is shown as a "SAMPLE ONLY."
3. **Equipment and Other Capital Expenditures.** Equipment and other capital assets, including repairs which materially increase their useful life, are allowable if the recipient/subrecipient has received prior approval.

- a. Where expenditures for equipment are not fully justified by the budget and budget narrative, the awarding agency may require that the type, quantity estimated, unit, or other information be provided through the issuance of special conditions to the award.
- b. In reviewing equipment acquisition budgets and proposals, the following principles should be adhered to:
  - (1) No other equipment owned by the recipient/subrecipient is suitable for the effort.
  - (2) No requests for luxury vehicles will be approved. Vehicle requests should be reasonable, and recipients shall usually follow Internal Revenue Service (IRS) guidelines for vehicles for business use. Vehicles purchased via State or local central procurement activities as part of a unit of government fleet are generally accepted as reasonable.
  - (3) Federal funds are not used to provide reimbursement for the purchase of equipment already owned by the recipient/subrecipient.

**Exception:** Equipment that has been purchased for a common pool and will be charged to the award at cost value is ALLOWABLE. Equipment that has already been purchased and charged to other activities of the organization would NOT be an ALLOWABLE expense to the award.

- (4) Equipment purchased and used commonly for two or more programs has been appropriately prorated to each activity.

4. **Preagreement Costs.** Prior approval is required for preagreement costs.

- a. Block/Formula Funds. Costs which were incurred prior to the date of the subaward period may be charged to the project where the award or subaward application specifically requests support for preagreement costs. States may approve preagreement costs for subrecipients if incurred subsequent to the beginning of the Federal fiscal year of award.

APPROVAL AUTHORITY IS RETAINED BY THE AWARDING AGENCY for any preagreement costs incurred prior to the beginning of the Federal fiscal year of award.

- b. Discretionary Awards. Costs which were incurred prior to the start date of the award may be charged to the project only if they receive prior approval from the awarding agency.

5. **Proposal Costs.** Costs to projects for preparing proposals for potential Federal awards require PRIOR APPROVAL for:



- a. The obligation or expenditure of funds; or
  - b. The performance or modification of an activity under an award/subaward project, where such approval is required.
6. **Consultant Rates.** Compensation for individual consultant services is to be reasonable and consistent with that paid for similar services in the market place. Consideration will be given to compensation including fringe benefits for those individuals whose employers do not provide the same. In addition, the policy is that the maximum rate for consultants is up to \$450 (excluding travel and subsistence costs) for an eight-hour day. An eight-hour day may include preparation, evaluation, and travel time in addition to the time required for actual performance. Please note, however, that this does not mean that the rate should be \$450 for all consultants. Rates should be developed and reviewed on a case-by-case basis and must be reasonable and allowable in accordance with OMB cost principles. A request for compensation for over \$450 a day requires PRIOR APPROVAL from the awarding agency and additional justification. Approval of consultant rates in excess of \$450 a day that are part of the original application with appropriate justification and supporting data will be approved on a case-by-case basis. The following is the policy in regard to compensation of various classifications of consultants who perform like-type services.
- a. Consultants Associated with Educational Institutions. The maximum rate of compensation that will be allowed is the consultant's academic salary projected for 12 months, divided by 260. These individuals normally receive fringe benefits which include sick leave for a full 12-month period even though they normally only work nine months per year in their academic positions.
  - b. Consultants Employed by State and Local Government. Compensation for these consultants will only be allowed when the unit of government will not provide these services without cost. If a State or local government employee is providing services under a Federal grant and is representing their agency without pay from their respective unit of government, the rate of compensation is not to exceed the daily salary rate for the employee paid by the unit of government. If the State or local government employee is providing services under a Federal grant and is not representing their agency, the rate of compensation is based on the necessary and reasonable cost principles.
  - c. Consultants Employed by Commercial and Not-For-Profit Organizations. These organizations are subject to competitive bidding procedures. Thus, they are not subject to the \$450 per day maximum compensation before requesting prior approval. In those cases where an individual has authority to consult without employer involvement, the rate of compensation should not exceed the individual's daily salary rate paid by his/her employer subject to the \$450 limitation.
  - d. Independent Consultants. The rate of compensation for these individuals must be reasonable and consistent with that paid for similar services in the market place. Compensation may include fringe benefits. In summary, consultants

obtained through competitive bidding do not require prior approval, including individual consultants.

7. **Interest Expense.** Interest on debt incurred to: (1) acquire equipment and buildings; (2) building construction; (3) fabrication; (4) reconstruction; and (5) remodeling is an allowable cost with prior approval. This interest applies only to buildings completed on or after 10/1/80 for State and local units of government and 9/29/95 for non-profit organizations.

## Chapter 16: Unallowable Costs

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### Highlights of Chapter:

- ◆ Land Acquisition
- ◆ Compensation of Federal Employees
- ◆ Travel of Federal Employees
- ◆ Bonuses or Commissions
- ◆ Military-Type Equipment
- ◆ Lobbying
- ◆ Fund Raising
- ◆ Corporate Formation
- ◆ Imputed Interest
- ◆ State and Local Sales Taxes
- ◆ Conferences and Workshops

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**Land Acquisition.** The funding legislation specifies that no Federal award involving the renting, leasing, or construction of buildings or other physical facilities shall be used for land acquisition. Accordingly, land acquisition costs are unallowable.

**Compensation of Federal Employees.** Salary payments, consulting fees, or other enumeration of full-time Federal employees are unallowable costs.

**Travel of Federal Employees.** Costs of transportation, lodging, subsistence, and related travel expenses of awarding agency employees are unallowable charges. Travel expenses of other Federal employees for advisory committees or other program or project duties or assistance are allowable if they have been:

1. Approved by the Federal employee's Department or Agency; and
2. Included as an identifiable item in the funds budgeted for the project or subsequently submitted for approval.

**Bonuses or Commissions.** The recipient or subrecipient is prohibited from paying any bonus or commission to any individual or organization for the purpose of obtaining approval of an application for award assistance. Bonuses to officers or board members of profit or non-profit organizations is determined to be a profit or fee and is unallowable.

**Military-Type Equipment.** Costs for such items as armored vehicles, explosive devices, and other items typically associated with the military arsenal, excluding automatic weapons, are unallowable. Exceptions MAY be made by the awarding agency upon a written request and justification from the recipient.

**Lobbying.** All recipients and subrecipients must comply with the provisions of the government-wide Common Rule on Restrictions on Lobbying, as appropriate. Refer to Part II, Chapter 1, for more specifics about those provisions.

The following lobbying cost prohibition is applicable to all recipients of funding:

1. Attempting to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity; and
2. Establishing, administering, contributing to, or paying for the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcome of elections.

Activities that are exempt from the above coverage include:

1. Providing a technical and factual presentation of information on a topic directly related to the performance of an award, through hearing testimony, statements, or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body, or subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and may be readily put in deliverable form, and further provided that costs under this section for travel, lodging, or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.
2. Any lobbying made unallowable by the above paragraph to influence State legislation in order to directly reduce the cost or to avoid material impairment of the organization's authority to perform under the award.
3. Any activity specifically authorized by statute to be undertaken with funds from an award.

**Fund Raising.** Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, may not be charged either as direct or indirect costs against the award. Neither the salary of persons engaged in such activities nor indirect costs associated with those salaries may be charged to the award, except insofar as such persons perform other funding-related activities.

An organization may accept donations (i.e., goods, space, services) as long as the value of the donations is not charged as a direct or indirect cost to the award.

A recipient may also expend funds, in accordance with approved award terms, to seek future funding sources to "institutionalize" the project, but not for the purpose of raising funds to finance related or complementary project activities.

Nothing in this section should be read to prohibit a recipient from engaging in fund raising activities as long as such activities are not financed by Federal or non-Federal award funds.

**Corporate Formation.** The cost for corporate formation may not be charged either as direct or indirect costs against the award.

**Imputed Interest.** Cost of money as an element of the cost of facilities capital, Cost Accounting Standards (CAS) 414, imputed interest, is not allowed.

**State and Local Sales Taxes** are unallowable when the government assesses taxes upon itself or disproportionately to Federal programs. An example of an unallowable tax would be if the government levied taxes as a result of Federal funding. An example of an allowable sales tax would be user taxes, such as gasoline tax. These provisions become effective as of the government's fiscal year beginning on or after January 1, 1998.

**Conferences and Workshops.** Unallowable costs include:

- Entertainment
- Sports
- Visas
- Passport Charges
- Tips
- Bar Charges
- Beverages
- Laundry Charges
- Meal service

## NOTES

## Chapter 17: Indirect Costs

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### Highlights of Chapter:

- ◆ Approved Plan Available
- ◆ No Approved Plan
- ◆ Establishment of Indirect Cost Rates
- ◆ Cost Allocation Plans -- Centralized Support Services
- ◆ Lobbying Costs and the Indirect Cost Pool
- ◆ Approving Rates for Subrecipient

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Indirect costs are costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs.

### Approved Plan Available.

1. The awarding agency may accept any current indirect cost rate or allocation plan previously approved for a recipient by any Federal awarding agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars.
2. Where the approved final indirect cost rate is lower than the actual indirect cost rate incurred, recipients may not charge expenses included in overhead pools (e.g., accounting services, legal services, building occupancy and maintenance, etc.) as direct costs.
3. Organizations with an approved indirect cost rate, utilizing total direct costs as the base, usually exclude contracts under awards or corporation agreements from any overhead recovery. The negotiation agreement will stipulate that major subcontracts are excluded from the base for overhead recovery. The term subcontract means any contract awarded under the award or corporation agreement.

**No Approved Plan.** If an indirect cost proposal for recovery of actual indirect costs is not submitted to the cognizant Federal agency within three months of the start of the award period, indirect costs will be irrevocably lost for all months prior to the month that the indirect cost proposal is received. This policy is effective for all awards.

**Exception:** If the Office of Management and Budget (OMB) has not assigned a Federal agency with cognizance for a local jurisdiction, then the unit of government is not required to submit their indirect cost proposal, unless the new cognizant agency (based on preponderance of Federal dollars) requires a copy of the proposal.

## **Establishment of Indirect Cost Rates.**

1. In order to be reimbursed for indirect costs, a recipient must first establish an appropriate indirect cost rate. To do this, the recipient must prepare an indirect cost rate proposal and submit it to the cognizant Federal agency. The cognizant Federal agency is generally determined based on the preponderance of Federal dollars received by the recipient.
2. Local units of government need only submit their cost allocation plans and indirect cost proposals, if specifically requested by their cognizant Federal agency assigned by OMB.
3. The proposal must be submitted in a timely manner (within six months after the end of the fiscal year) to assure recovery of the full amount of allowable indirect costs. The proposal must be developed in accordance with principles and procedures appropriate to the type of institution involved.
4. To support the indirect cost proposal, Federal recipients are responsible for ensuring that independent audits of their organizations are conducted in accordance with existing Federal auditing and reporting standards set forth in OMB Circulars A-128 and A-133. This audit report must be submitted to the cognizant agency to support the indirect cost proposal. After negotiations, the cognizant agency will establish either a predetermined, provisional, final, or fixed-with-carry-forward indirect cost rate. For copies of a "How To" package, contact the DOJ Response Center at 1-800-421-6770.
5. A signed certification from the grantee organization requesting an indirect cost rate must accompany the indirect cost allocation plan. This organization must certify that the indirect cost allocation plan only includes allowable costs.
6. Copies of brochures of indirect cost rates that may describe the procedures involved in the computation may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D. C. 20402.
  - **OASC-1** (Rev) -- A Guide for Colleges and Universities, Cost Principles and Procedures for Establishing Indirect Cost Rates for Research Awards with the Department of Health, Education and Welfare.
  - **OASMB-5** (Rev) -- A Guide for Non-Profit Institutions, Cost Principles and Procedures for Establishing Indirect Cost and Other Rates for Awards with the Department of Health, Education, and Welfare.
  - **OASC-10** -- A Guide for State and Local Government Agencies, Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Awards and Contracts with the Federal Government.



**Cost Allocation Plans -- Central Support Services.** State agencies and local units of government may not charge to an award the cost of central support services supplied by the State or local units of government except pursuant to a cost allocation plan approved by the cognizant Federal agency. The rate which is to be applied may be on a fixed, predetermined, or fixed-with-carry-forward provision.

**Lobbying Costs and the Indirect Cost Pool.** When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal and thereafter treated as other unallowable activity costs in accordance with the above procedures and Attachment A of OMB Circular A-122.

1. Organizations shall submit, as part of their annual indirect cost rate proposal, a certification that the requirements and standards have been complied with.
2. Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to Attachment B of OMB Circular A-122 complies with the requirements of the Circular.
3. Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this section during any particular calendar month when:
  - a. The employee engages in lobbying, as defined above;
  - b. Twenty-five percent or less of the employee's compensated hours of employment during that calendar month constitutes lobbying as defined above; and
  - c. Within the preceding five-year period, the organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs.
4. When conditions "a" and "b" above are met, organizations are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions "a" and "b" above are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

**Approving Rates for Subrecipients** is the responsibility of the direct recipient. The Federal awarding agency will not approve indirect cost rates beyond the direct recipient level.

## NOTES

## Chapter 18: Closeout

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### Highlights of Chapter:

- ◆ Closeout of Discretionary/Categorical Awards
- ◆ Closeout of Formula/Block Awards

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### Closeout of Discretionary/Categorical Awards.

1. **Recipient Closeout Requirements.** Within **120 days** after the end date of the award or any approved extension thereof (revised end date) the following documents must be submitted by the recipient to the awarding agency.
  - a. Financial Status Report. This FINAL report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award amount of the awarding agency. Recipients on a check-issued basis, who have drawn down funds in excess of their obligation/expenditures, shall return unused funds to the awarding agency at the same time they submit the final report. Recipients under Letter of Credit should make adjustments for any cash balances on drawdown vouchers. (Recipients must report obligations and expenditures at the recipient/subrecipient level.)
  - b. Final Progress Report. This report should be prepared in accordance with instructions provided by the awarding agency.
  - c. Invention Report. All inventions that were conceived or first actually reduced to practice during the course of work under the award project must be listed on this report.

**Closeout of Formula/Block Awards.** The timeframe for closeout of formula/block awards is also 120 days from the end date of the grant.

## NOTES

## Chapter 19: Audit Requirements

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### Highlights of Chapter:

- ◆ Audit Objectives
- ◆ Audit Reporting Requirements
- ◆ Failure to Comply
- ◆ Audit Thresholds
- ◆ Due Dates for Audit Reports
- ◆ Audit Compliance
- ◆ Resolution of Audit Reports
- ◆ Top Ten Audit Findings
- ◆ Audits of Subrecipients
- ◆ Technical Assistance
- ◆ Full-Scope Auditing
- ◆ Commercial (For-Profit) Organizations
- ◆ Distribution of Audit Reports
- ◆ OIG Regional Offices

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This chapter establishes responsibilities for the audit of organizations receiving agency funds. The intent of this chapter is to identify the policies for determining the proper and effective use of public funds rather than to prescribe detailed procedures for the conduct of an audit.

**Audit Objectives.** Awards are subject to conditions of fiscal, program, and general administration to which the recipient expressly agrees. Accordingly, the audit objective is to review the recipient's administration of funds and required non-Federal contributions for the purpose of determining whether the recipient has:

1. Established an accounting system integrated with adequate internal fiscal and management controls to provide full accountability for revenues, expenditures, assets, and liabilities. This system should provide reasonable assurance that the organization is managing Federal financial assistance programs in compliance with applicable laws and regulations.
2. Prepared financial statements which are presented fairly, in accordance with generally accepted accounting principles.
3. Prepared financial reports (which may include Financial Status Reports, Cash Reports, and Claims for Advances and Reimbursements), which contain accurate and reliable financial data, and are presented in accordance with the terms of applicable agreements.
4. Expended Federal funds in accordance with the terms of applicable agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements or on the awards tested.

**Audit Reporting Requirements.** Independent auditors should follow the requirements prescribed in OMB Circulars A-128 and A-133.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. The recipient, in turn, shall promptly notify the cognizant Federal agency of the illegal acts or irregularities and of proposed and actual actions, if any.

All awarding agency personnel have the responsibility to inform the Office of Professional Responsibility and the Office of Inspector General, DOJ, and State and local law enforcement agencies or prosecuting authorities, as appropriate, of any known violations of the law within their respective area of jurisdiction.

**Failure to Comply.** Failure to have audits performed as required may result in the withholding of new awards and/or withholding of funds or change in the method of payment on active grants.

**Audit Threshold.**

1. **State and Local Governments.** Recipients who receive \$100,000 or more of Federal funds during their fiscal year are required to submit an organization-wide financial and compliance audit report. Recipients who receive \$25,000 to \$100,000 of Federal funds are required to submit a program or organization-wide audit report as directed by the awarding agency. Recipients who receive less than \$25,000 of Federal funds are not required to submit a program or organization-wide financial and compliance audit report for that year.
2. **Institutions of Higher Education and Other Non-Profit Institutions, Commercial Organizations, and Individuals.** Recipients who receive \$300,000 or more of Federal funds during their fiscal year are required to submit an organization-wide financial and compliance audit report.

**Due Dates for Audit Reports.** These audits are due to the cognizant Federal agency or oversight agency not later than 13 months after the end of the recipient's fiscal year. Audit reports shall be submitted to the recipient's cognizant Federal agency. Details regarding audit report submission are addressed in a special condition to the award.

**Audit Compliance.** Techniques to use to determine recipient compliance with Federal requirements when an organization-wide audit is not conducted include:

1. Obtaining audits from recipient that were made in accordance with the "Government Auditing Standards."
2. Relying on previous audits performed on recipient's operations.
3. Desk reviews by program officials of project documentation.
4. Project audits by auditors or auditors obtained by recipients.

5. Evaluations of recipient's operations by program officials.

**Resolution of Audit Reports.** Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each recipient shall have policies and procedures for responding to audit recommendations by designating officials responsible for:

1. Following up;
2. Maintaining a record of the action taken on recommendations and time schedules for completing corrective action;
3. Implementing audit recommendations;
4. Submitting periodic reports to the Federal cognizant audit agency on recommendations and actions taken; and
5. Providing an audit special condition on all subawards. This special condition contains information, such as the audit report period, required audit report submission date, and name and address of cognizant Federal agency. The policy of the awarding agency is not to make new awards to applicants who are not in compliance with the audit requirements.

The awarding agency monitors the audit requirements through its audit tracking system and is responsible for tracking audit reports received through the audit process until resolved and closed.

**Top Ten Audit Findings** include:

1. Untimely report submissions;
2. Lack of documentation;
3. Inadequate monitoring of subrecipients;
4. Inadequate time/effort reports;
5. Inaccurate reports (Financial Status Reports and Requests for Payment);
6. Commingling of funds;
7. Excess cash on hand;
8. Unallowable costs;
9. Inappropriate changes; and
10. Conflicts of interest.

**Audit of Subrecipients.** When subawards are made to another organization(s), the recipient shall require that subrecipients comply with the audit requirements set forth in this chapter. Recipients are responsible for ensuring that subrecipient audit reports are received and for resolving any audit findings. Known or suspected violations of any law encountered during audits, including fraud, theft, embezzlement, forgery, or other serious irregularities, must be communicated to the recipient.

**Technical Assistance.** The Office of Inspector General, DOJ, is available to provide technical assistance to recipients in implementing the audit requirements of this chapter where the DOJ is the assigned cognizant agency or has oversight responsibilities because it provided the preponderance of direct Federal funding to the recipient. This assistance is available for areas such as:

1. Review of the audit arrangements and/or negotiations;
2. Review of the audit program or guide to be used for the conduct of the audit; and
3. On-site assistance in the performance of the audit, when deemed necessary, as a result of universal or complex problems that arise. Requests for technical assistance should be addressed to the appropriate Regional Inspector General's Office, DOJ (see listing of regional offices).

**Full-Scope Auditing.** In addition to arranging and providing for the organizational, financial, and compliance audits required by the OMB circular, individual recipients and subrecipients are encouraged to provide for additional audit coverage, as deemed appropriate. The additional audit coverage that may be provided should be determined based on the circumstances surrounding the particular organization, function, program, or activity to be audited, management needs, and available audit capability. Additional audit coverage could involve such organizational determinations as related to:

1. Are resources managed and used in an economical and efficient manner?
2. Are desired results and objectives achieved in an effective manner?
3. Are the organization's accounting system and system of internal controls acceptable prior to the receipt of awarding agency funds?
4. Are the organization's systems and controls adequate to detect fraud, waste, and abuse?

**Commercial (For-Profit) Organizations** shall have financial and compliance audits conducted by qualified individuals who are organizationally, personally, and externally independent from those who authorize the expenditure of Federal funds. This audit must be performed in accordance with Government Auditing Standards, 1994 Revision. The purpose of this audit is to ascertain the effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the award. Usually, these audits shall be conducted annually, but not less frequently than every two years. The dollar threshold for audit reports established in OMB Circular A-133, as amended, applies.



**Distribution of Audit Reports.** The submission of audit reports for all grantees shall be as follows:

1. **State and Local Governments, Institutions of Higher Education, and Non-Profit Institutions.** All completed audit reports for State and local governments, institutions of higher education, and non-profit institutions should be mailed to the Federal Audit Clearinghouse, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132. In addition, a copy of the transmittal letter should be mailed to the Office of the Comptroller, Office of Justice Programs, ATTN: Control Desk, U.S. Department of Justice, Washington, DC 20531.

In addition, where DOJ is the cognizant agency, an original and one copy of the completed audit report should be mailed to the appropriate regional Office of Inspector General (see page 114). Where DOJ is not the cognizant agency, an original and one copy of the completed audit report should be mailed to the cognizant agency.

2. **Commercial Organizations and Individuals.** One copy of all audit reports for commercial organizations and individuals should be mailed to both (1) the Federal Audit Clearinghouse, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132 and (2) the Office of the Comptroller, Office of Justice Programs, ATTN: Control Desk, U.S. Department of Justice, Washington, DC 20531.

## OIG Regional Offices.

Regional Audit Office	Geographical Area of Responsibility
<p>Clark F. Cooper Atlanta Regional Audit Manager 101 Marietta Street, Suite 2322 Atlanta, GA 30323-2401 Voice No. (404) 331-5928 Fax No. (404) 331-5046</p>	<p>Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico, Virgin Islands</p>
<p>Robert C. Gruensfelder Chicago Regional Audit Manager 500 West Madison, Suite 3510 Chicago, IL 60661-2590 Voice No. (312) 353-1203 Fax No. (312) 886-0513</p>	<p>Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin</p>
<p>George W. Stendell Dallas Regional Audit Manager Assistant Regional Audit Manager 207 S. Houston Street, Box 4, Room 334 Dallas, TX 75202 Voice No. (214) 655-5000 Fax No. (214) 655-5025</p>	<p>(No single audit responsibility.)</p>
<p>David Sheeren Regional Inspector General for Audit Colonnade Center Federal Building 1244 Speer Blvd., Suite 640 Denver, CO 80204 Voice No. (303) 844-3638 Fax No. (303) 844-2780</p>	<p>Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, South Dakota, Oklahoma, Texas, Utah, Wyoming</p>
<p>M. Thomas Clark San Francisco Regional Audit Manager 1200 Bayhill Drive, Suite 201 San Bruno, CA 94066 Voice No. (415) 876-9220 Fax No. (415) 876-0902</p>	<p>Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, Trust Territories of the Pacific Islands, Commonwealth of Northern Mariana Islands</p>
<p>Ferris B. Polk Philadelphia Regional Audit Manager 701 Market Street, Suite 201 Philadelphia, PA 19106 Voice No. (215) 580-2111 Fax No. (215) 597-1348</p>	<p>Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont</p>
<p>Domenic A. Zazzaro Washington Regional Audit Manager 1425 New York Ave., N.W., Suite 6001 Washington, D. C. 20005 Voice No. (202) 616-4688 Fax No. (202) 616-4581</p>	<p>District of Columbia, Maryland, Virginia, West Virginia</p>

## NOTES

## NOTES

## PART IV -- ORGANIZATION AND PROGRAM INFORMATION

### Chapter 1: Organization Structure

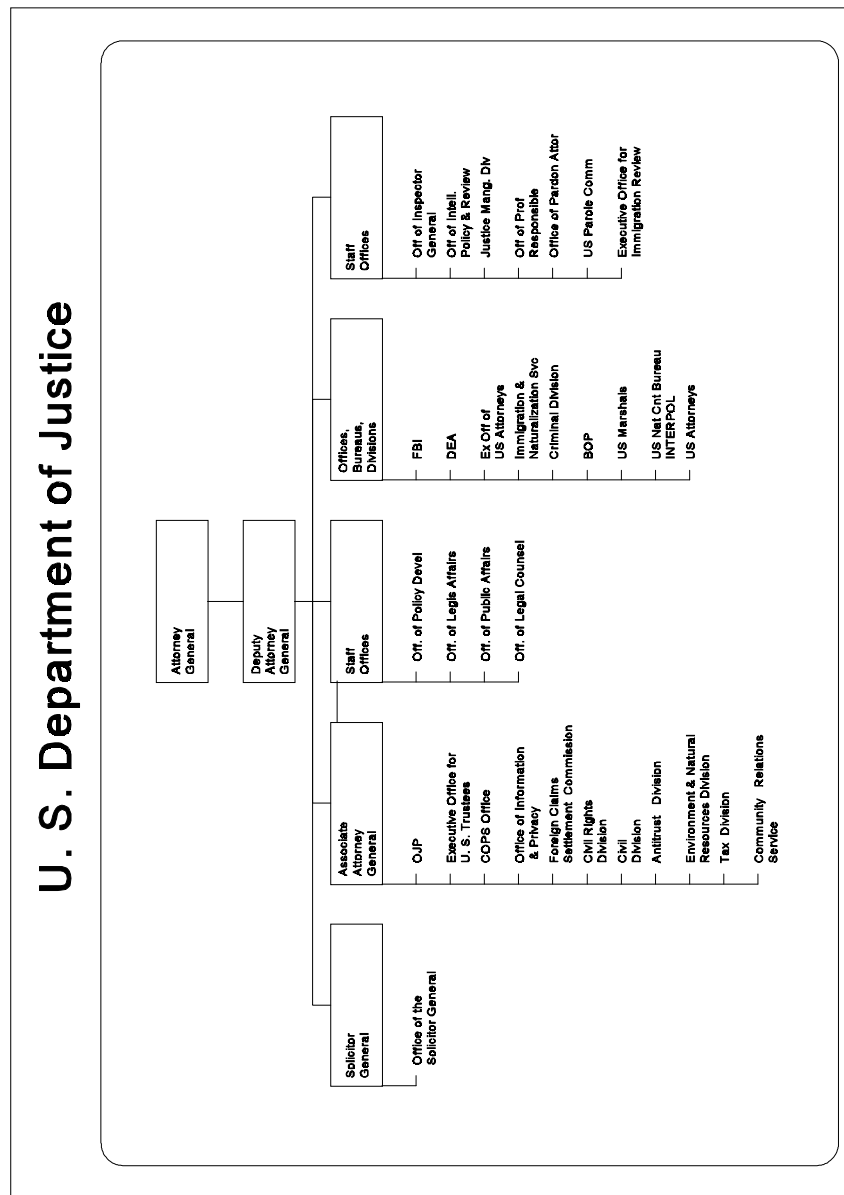
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#### Highlights of Chapter:

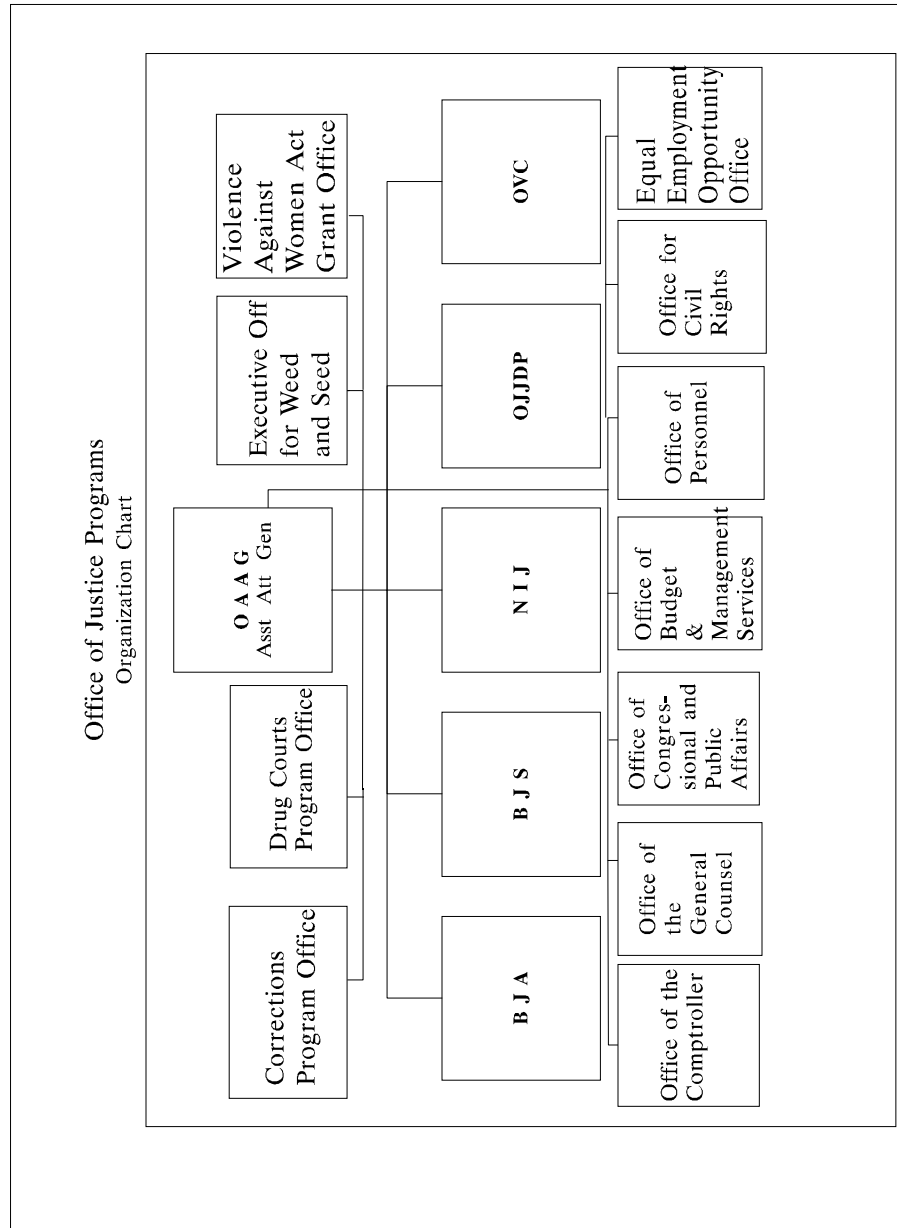
- ◆ United States Department of Justice Organization Chart
- ◆ Office of Justice Programs Organization Chart
- ◆ Office of the Comptroller Organization Chart

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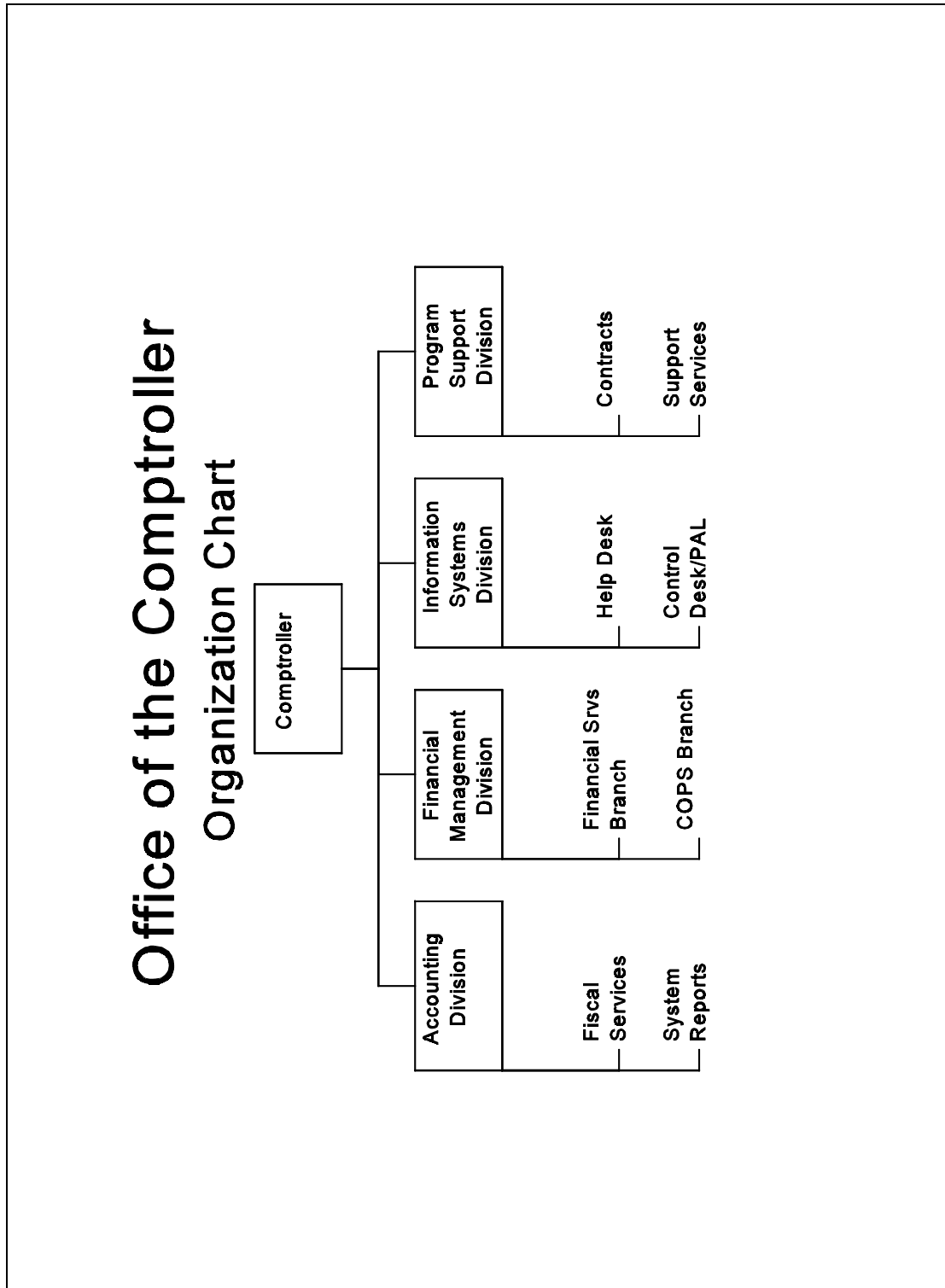
#### United States Department of Justice Organization Chart.



## Office of Justice Programs Organization Chart.



## Office of the Comptroller Organization Chart.



## NOTES



## Chapter 2: Legislative Authority

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### Highlights of Chapter:

- ◆ Office of Juvenile Justice and Delinquency Prevention
- ◆ Bureau of Justice Statistics
- ◆ National Institute of Justice
- ◆ Bureau of Justice Assistance
- ◆ Office for Victims of Crime
- ◆ Civil Rights Division
  - Office of Special Counsel for Immigration Related Unfair Employment Practices
  - Americans with Disabilities Act Technical Assistance Grant Program
- ◆ Drug Court Office
- ◆ Corrections Office
- ◆ Violence Against Women Grants Office
- ◆ Executive Office of Weed and Seed

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## OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

### Formula Grants

**16,540**

AUTHORIZATION: Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974, Sections 221-223, as amended, 42 USC §§5631-5633.

OBJECTIVES: To increase the capacity of State and local governments to support the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

USES AND USE RESTRICTIONS: The allotment to any of 57 designated State jurisdictions is \$325,000 except that a minimum allotment to five specified insular areas (territories) is \$75,000. Additional allocations are based on the State's relative population under age 18 and the total amount appropriated by the Congress for OJJDP.

States applying for a formula award must establish or designate a State agency as the sole agency for supervision, preparation, and administration of the plan. The designated State agency must obtain, if necessary, legislative authority to implement the State plan.

Submission of the State plan should occur by November 30 of each Federal fiscal year. A State must submit a comprehensive plan applicable to a three-year period and annual updates. The State plan must provide for an advisory group, appointed by the Governor, to participate in the development and review of the comprehensive plan and annual plan updates and to perform other functions.

A comprehensive plan must embody the purpose of the JJDP Act and all special provisions. Plans are updated annually to include new programs or modify existing ones.

Each State determines the specific use of funds, based on their analysis of juvenile crime problems, juvenile needs, and implements the plan once approved by OJJDP.

States are responsible for processing applications and administering funded programs. Unless a waiver is granted, two-thirds of funds must be passed through to units of general local government, local private agencies, or Indian Tribes performing law enforcement functions.

**Match:** Under the JJDP statute, states cannot force subrecipients to match. Under Title II, match is 50/50 on administrative money only. Under Title V, match is 66-2/3 and 33-1/3.

States may utilize up to 10 percent for planning and administrative purposes. These funds require a dollar for dollar match. Action programs do not require matching funds. The Administrator, OJJDP, shall waive any matching requirement for insular areas.

Funds used for construction require a 50/50 cash match. The Administrator may waive cash matching requirements for construction projects and allow in-kind match for private agencies meeting specific conditions.

**Other:** Funds for construction are limited to construction of non-secure, innovative, community-based facilities for less than 20 people which the Administrator has judged as necessary. Purchase of land with Federal funds (real property) is an unallowable cost.

Fiscal year action funds may be carried forward for obligation for two years subsequent to the fiscal year of the award. Federal funds may not be used to supplant State or local funds that would be made available for any such program.

#### **Special Emphasis Discretionary Funds 16.541**

AUTHORIZATION: Juvenile Justice and Delinquency Prevention Act of 1974, Sections 261-262, as amended, 42 USC §5665.

OBJECTIVE: Funds are for promotion of specific programs designed to foster promising approaches for dealing with juvenile delinquency.

USES AND USE RESTRICTIONS: Special emphasis funds are available to public and private non-profit agencies, organizations, individuals, State and local units of government, and combinations of State and local units.

Assistance awards may be awarded to applicants directly, or through the State agency.

Applicants must meet the guidelines established by the Administrator.

Applications are subject to competition and peer review.

Special emphasis grant awards do not require a cash match, except for construction projects which require a 50/50 cash match, which is waived for insular areas.

Construction projects are limited to construction of innovative, community-based facilities for less than 20 people if the Administrator agrees with the need for such construction.

Awards are generally made for 12 to 24 months, and further funding is based on project completion and recipient performance.

## **Technical Assistance and Training -- Discretionary Funds**

### **16.541**

**OBJECTIVES:** Technical assistance and training funds are available to States and local governments, combinations of State and local governments, or other private agencies, organizations, or individuals. Technical assistance awards are generally made on a competitive basis.

Applicants should contact the office for additional information.

## **National Institute of Juvenile Justice and Delinquency Prevention**

### **16.542**

**AUTHORIZATION:** Juvenile Justice and Delinquency Prevention Act of 1974, Sections 241-248, as amended, 42 USC §§5651-5662.

**OBJECTIVES:** Funds are for: (1) the collection, preparation, and dissemination of useful data regarding the prevention, treatment, and control of juvenile delinquency; (2) training of law enforcement officers, teachers, family counselors, judges, law-related education teachers, youth workers, and other system personnel; (3) information collection and dissemination; (4) research, evaluation, and studies on any aspect of delinquency; (5) demonstration projects in new techniques and methods to prevent and treat delinquency; (6) development and support of model legislation; and (7) State Advisory Group Conference support.

**USES AND USE RESTRICTIONS:** Eligible recipients are public or private agencies, organizations, or individuals.

Project funding is from one to five years (research) duration depending on the project requirements. Solicitations for applications to conduct specific programs are published in the Federal Register throughout the year.

Selection criteria is based on the proposal's consistency with policies, program priorities, and the technical soundness of the proposal.

Funds are primarily for:

- Training of juvenile justice professionals, paraprofessionals, and volunteers for juvenile delinquency programs.
- Research, development, and evaluation of various aspects of juvenile delinquency programs, methods, or theories.

## **Missing Children's Assistance Discretionary Funds**

### **16.543**

**AUTHORIZATION:** Juvenile Justice and Delinquency Prevention Act of 1974, Sections 402-409, Sections 3701-3702, as amended, 42 USC §§5771-5773, §§5775-5780.

**OBJECTIVES:** Primary purpose is to provide technical assistance and support in the location and recovery of missing children through the dissemination of information on the missing children problem and coordination of various public and private programs which address the missing children problem.

**USES AND USE RESTRICTIONS:** Applicants may be public or private non-profit agencies, organizations, individuals, State or local units of government, or combinations of State and local units.

There are no matching requirements.

Initial awards are usually made for 12 to 18 months, with further funding based on the project period and recipient performance.

## **BUREAU OF JUSTICE STATISTICS**

### **Criminal Justice Statistics Development 16.550**

AUTHORIZATION: Omnibus Crime Control and Safe Streets Act of 1968, Sections 301-305, as amended, 42 USC §§3731-3735.

OBJECTIVES: The purpose of this assistance is to provide financial and technical assistance to State governments to encourage the development of State capabilities for the collection, analysis, and dissemination of criminal justice statistical information.

USES AND USE RESTRICTIONS: The beneficiaries are the State agencies whose responsibilities include statistical activities consistent with specific programs. Most awards are for periods of 12 months. Subsequent awards may be made to continue a project. There is no statutory requirement for matching funds. However, for most programs a cash or in-kind match is encouraged.

## **NATIONAL INSTITUTE OF JUSTICE**

### **Justice Research and Development Project Grants 16.560**

AUTHORIZATION: Omnibus Crime Control and Safe Streets Act of 1968, Sections 201-203, as amended, 42 USC §§3721-3723.

OBJECTIVES: To encourage and support research and development in understanding the causes of crime and improving the criminal justice system.

USES AND USE RESTRICTIONS: There is no statutory matching requirement, but NIJ will require, whenever feasible, that the recipient provide money, facilities, or services to carry out the purpose of the award.

ASSISTANCE CONSIDERATIONS: Eligible recipients are State and local governments, private for-profit and non-profit organizations, institutions of higher learning, and qualified individuals.

OTHER: Applications are reviewed by program managers and are also subject to peer review.

For additional information, send for "Research Program Plan," available from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850.

### **Visiting Fellowships 16.561**

AUTHORIZATION: Omnibus Crime Control and Safe Streets Act of 1968, Sections 201-203, as amended, 42 USC §§3721-3723.

OBJECTIVES: To provide opportunities for experienced criminal justice practitioners and researchers to pursue projects aimed at improving the understanding of crime, delinquency, and criminal justice administration by sponsoring research projects of their own creation and design.

USES AND USE RESTRICTIONS: There are no matching fund requirements.

ASSISTANCE CONSIDERATIONS: Funds are awarded to individuals or their parent organization. Projects are not normally less than six months nor more than 18 months in duration.

IPA appointments may be negotiated with the Fellow's parent agency.

OTHER: For additional information write to: National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850.

**Criminal Justice Research and Development Graduate Research Fellowship Program**  
**16.562**

AUTHORIZATION: Omnibus Crime Control and Safe Streets Act of 1968, Sections 201-203, as amended, 42 USC §§3721-3723.

OBJECTIVES: Project awards are used to improve the quality and quantity of knowledge about crime and the criminal justice system, while at the same time, helping to increase the number of persons qualified to teach in collegiate criminal justice programs, to conduct research related to criminal justice issues, and to perform more effectively within the criminal justice system.

USES AND USE RESTRICTIONS: There are no matching requirements.

Eligible students are doctoral candidates engaged in dissertation research and writing on a problem related to law enforcement, crime, or criminal justice.

ASSISTANCE CONSIDERATIONS: Program provides fellowship stipends, major project costs, and certain university fees.

Eligible graduate students must submit a concept paper and must have completed all degree requirements except for the research writing or an internship.

The National Institute of Justice will invite a limited number of institutions to apply for fellowships on behalf of their students.

Copies of doctoral dissertations are required upon completion of the program.

OTHER: Maximum stipend is \$5,000. Dependency allowance maximum is \$1,600. Total maximum is \$11,000.

**BUREAU OF JUSTICE ASSISTANCE**

**Public Safety Officers' Benefits Program**  
**16.571**

AUTHORIZATION: Omnibus Crime Control and Safe Streets Act of 1968, Sections 1201-1205, as amended, 42 USC §§3796-3796(c).

OBJECTIVES: Provides \$100,000 death benefit to the eligible survivors of Federal, State, or local public safety officers.

USES AND USE RESTRICTIONS: None.

ASSISTANCE CONSIDERATIONS: *Eligibility:* Eligible are the spouse and children of public safety officers and the parents of public safety officers not survived by a spouse or children. *Conditions:* The benefit level is adjusted annually by the percentage of change in the consumer price index from the previous year.

OTHER: Agencies and/or claimants should initiate a claim by writing or telephoning the Public Safety Officers' Benefits Program, Bureau of Justice Assistance, Washington, DC 20531. Telephone: (202) 307-0635.

**State Criminal Alien Assistance Program (SCAP)**  
**16.572**

AUTHORIZATION: The Immigration Reform and Control Act of 1986, Section 501, as amended, 8 USC §1365.

OBJECTIVES: Provide financial reimbursements to States for their expenses by reason of illegal criminal aliens having to be incarcerated in State facilities during the last fiscal year following their conviction of a felony.

ASSISTANCE CONSIDERATIONS: The total amount of reimbursement will be a pro rata share of the total amount appropriated for any given year.

USES AND USE RESTRICTIONS: None.

**Regional Information Sharing Systems Grants (RISS)**

The Bureau of Justice Assistance makes awards or enters into contracts with designated regional recipients to support criminal justice organizations by identifying and targeting criminal conspiracies and activities spanning jurisdictional boundaries.

**Emergency Federal Law Enforcement Assistance**  
**16.577**

AUTHORIZATION: 42 USC §10501, et seq.

OBJECTIVES: Project awards are to be used to assist State and local governments in responding to an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions and for which the State and local resources are inadequate to protect the lives and property of citizens or enforce criminal law.

USES AND USE RESTRICTIONS: There are no matching fund requirements. There is no mandatory time frame on duration of award.

Funds may not be used for planning and other activities related to crowd control and other general public safety matters or for the enforcement of laws associated with the scheduling of public events, including political conventions and sports events.

ASSISTANCE CONSIDERATIONS: In addition to funds, assistance may be in the form of equipment, training, intelligence information, and personnel provided through the Federal Law Enforcement community.

OTHER: Eligible recipients are States on their own behalf or on behalf of local governments. The chief executive officer of the State may submit an application for assistance to the Attorney General of the United States.

**Federal Surplus Property Transfer Program**  
**16.578**

AUTHORIZATION: The Federal Property and Administrative Services Act of 1949, Section 203, as amended, 40 USC §4841(p).

OBJECTIVE: Transfer or convey to State and local governments or territories, at no cost, surplus real and related personal property, determined by the Attorney General to be required for correctional facility use for programs or projects for the care and rehabilitation of criminal offenders, as approved by the Attorney General.

**USES AND USE RESTRICTIONS:** Properties can be used for sentencing alternative programs in addition to utilization for secure institutions. Property must be for the direct use and benefit of prisoners and not for administrative functions.

**ASSISTANCE CONSIDERATIONS:** A quit claim deed is issued by the General Services Administration. The Bureau of Justice Assistance makes no award but merely makes a recommendation to GSA regarding the suitability of the program as it pertains to corrections.

**OTHER:** Applicant must be a governmental entity.

**Drug Control and System Improvement Formula Grants (Byrne Formula Program)**  
**16.579**

**AUTHORIZATION:** Omnibus Crime Control and Safe Streets Act of 1968, Sections 501-509, as amended, 42 USC §3751, et seq.

**OBJECTIVES:** BJA is authorized to make grants to States, for use by State and local units of government, to improve the functioning of the criminal justice system, with emphasis on violent crime and serious offenders, and to enforce State and local laws that establish offenses similar to offenses established in the Federal Controlled Substances Act (21 USC §801, et seq.)

**USES AND USE RESTRICTIONS:** Grants may provide personnel, equipment, training, technical assistance, and information systems for more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of persons who violate such laws, and may provide assistance (other than compensation) to their victims. There are 26 legislatively authorized purpose areas for which assistance may be provided.

**Administrative Funds:** Up to 10 percent of the formula grant funds allocated to a State may be used for the administration of the Formula Grant Program.

**Funding Priorities:** States are directed to give priority to those jurisdictions with the greatest need and to comply with the following Congressional mandates:

- **Criminal Justice Records Improvement:** States must use at least 5 percent of their awards for the improvement of criminal justice records.
- **Reporting Alien Convictions:** States must provide the Immigration and Naturalization Service with both notice and the requested records of alien convictions.
- **Testing Sex Offenders for HIV:** States must have and enforce a law that requires, at the request of the victim of a sexual act, that certain offenders be tested for HIV. If a State fails to comply, 10 percent of the State's formula grant will be withheld.

**Construction:** Grant funds may be used for construction of penal and correctional institutions only. Acquisition of land with grant funds is prohibited.

**ASSISTANCE CONSIDERATIONS:** *Formula and Matching Requirements:* Each participating State shall receive .25 percent of the total formula grant allocation, or \$500,000 whichever is greater, with the remaining funds allocated to each State on the basis of each State's relative share of the total United States population. Funds granted to the State are subawarded to State agencies and local units of government.

The chief executive of each participating State shall designate a State Office (single point of contact) for the purpose of applying for the funds and for the administration and review of grants and grant funds. The State Office will be responsible for the administration of funds including receipt, review, processing, monitoring, progress and financial report review, technical assistance, award adjustments, accounting, auditing, and fund disbursement.

**Pass-Through:** Local units of governments must receive a share of the State's formula grant funds that is equal to the ratio of local criminal justice expenditures to the total criminal justice expenditures for the State.

**Match:** At least 25 percent of the cost of a formula grant program or project must be paid with non-Federal funds. Funds provided for match must be in addition to funds that would otherwise be made available by the recipient for law enforcement. Cash match is generally met on a project-by-project basis. Request for match in other than a project-by-project basis must be submitted with the application and approved by BJA. Project-by-project is defined as award-by-award for each of the 26 purpose areas.

**OTHER:** For application requirements, applicants should contact the BJA official designated in the Federal Register announcement. The 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands all are eligible to apply for formula grant funds. For the purposes of the Formula Grant Program, reference to "State" includes all of the above mentioned eligible entities.

### **Drug Control and System Improvement Discretionary Grants**

#### **16.580**

**AUTHORIZATION:** Omnibus Crime Control and Safe Streets Act of 1968, Sections 510-518, as amended, 42 USC §§3760-3764, et seq.

**OBJECTIVES:** The discretionary program is intended to complement and enhance the Drug Control and System Improvement Formula Grant Program.

**USES AND USE RESTRICTIONS:** Funds may be used to provide financial assistance to public agencies and private non-profit organizations for criminal justice education and training, technical assistance, undertaking projects that are national or multi-state in scope, and demonstration programs that are likely to be successful. Programs are announced in the Federal Register each year.

**ASSISTANCE CONSIDERATIONS:** The length of the award may vary but is generally for one year. Continuation awards are sometimes available.

There are no matching fund requirements mandated by the enabling legislation, but the awarding agency may make such a requirement.

**OTHER:** For application requirements, applicants should contact the BJA official designated in the Federal Register announcement.

## **OFFICE FOR VICTIMS OF CRIME**

### **Crime Victims' Assistance Formula Grants**

#### **16.575**

**AUTHORIZATION:** Victim Compensation and Assistance Act, as amended, 42 USC §§10601-10607; Victims of Child Abuse Act, as amended, 42 USC §13001, et seq.

**OBJECTIVE:** Support victims programs. Stimulate State participation and support for victims programs and promote victim cooperation with law enforcement.

**ASSISTANCE CONSIDERATIONS:** Forty-five percent of the first \$100M deposited in the Crime Victims Fund will be used for the crime victims' assistance programs. If collection funds exceed \$100M, the next \$5.5M is available for awards under the Children's Justice Act and the next \$4.5M of the monies collected between \$105.5M and \$110M will be made available for victims' assistance programs. In addition, 48.5 percent of monies deposited in the fund over \$110M, and up to \$150M for Fiscal Years 1992 through 1994, will also be available for victims' assistance awards. Any portion of crime victims' compensation funds allocated, but not awarded in a fiscal year, will be made available for award for crime victims' assistance awards.



Awards will be made to a State agency which will subaward to direct service agencies.

**Award Amounts:** Each participating State, the District of Columbia, and all territories and possessions will be awarded a base amount of \$200,000 thereafter through Fiscal Year 1994, with the balance of the remaining funds being awarded on a population basis, according to the most recent United States Census.

**USES AND USE RESTRICTIONS:** Monies awarded are available for obligation during the fiscal year of award and the succeeding fiscal year. Funds not obligated during the fiscal year of award and next succeeding fiscal year are returned to the general fund of the Treasury. Funds are to be used only to provide services to individual victims of crime.

Sexual assault, spousal abuse, and child abuse programs are to be given priority. This requires that each of these areas receive a minimum of 10 percent each of the total State victims' assistance award. States are also required to award 10 percent of their total State Victims of Crime Act victims' assistance grant award to previously underserved populations of victims of violent crime, i.e., survivors of homicide victims, DUI/DWI victims and survivors of those victims, etc.

**Match:** The requirement is by subaward and not by project type (i.e., sexual assault, spousal abuse, etc.)

Recipients will identify all subaward recipients by submitting the required report forms to OVC.

Audit costs are an allowable expenditure for subrecipients only. The State agency that receives the crime victims' assistance award funds may use their 5 percent administrative monies for audit costs or other administrative expenses.

**Administrative Costs:** Beginning with the Federal Fiscal Year (FFY) 1995, VOCA victims' assistance grants, each State grantee may retain up to, but not more than, 5 percent of each year's grant for administering the VOCA crime victims' assistance grant program.

**Training Funds:** Beginning with the FFY 1994 grant period, States may opt to retain a portion of their VOCA grant to provide State-wide or regional State training activities that improve the skills of direct service providers. The reporting requirements contained in this option are minimal -- Subgrant Award Report information must be submitted and information regarding the training must be reported on the Performance Report. These reporting criteria apply to VOCA funds used for this option, as well as all other uses of VOCA funds.

To exercise this training option, a State must submit one or more training proposals to OVC for approval, either at the time of application for the annual VOCA victims' assistance grant or at least three months prior to the training event. The training activity must occur within the grant period, and all training costs must be obligated prior to the end of the grant period.

**Note:** VOCA grant funds cannot be used to supplant the cost of existing State administrative staff or related State training efforts, i.e., State-wide conferences, coalition conferences, etc.

The maximum amount permitted for this purpose is \$5,000 or 1 percent of the State's grant, whichever is greater.

**Matching Requirements:** The match requirement for new and existing programs is 20 percent and may be cash or in-kind match. The VOCA funds will be matched at 20 percent cash or in-kind with the source of the match described.

The Office for Victims of Crime has initiated a policy to permit a 5 percent match of cash or in-kind contributions for awards to Indian tribes or Native American organizations or reservations.

**OTHER:** Beginning with the FFY 1994 grant period, States will be given the latitude to assess the needs of crime victims within their State and allocate less than 10 percent to a specific category of priority or underserved crime victims, so long as they can demonstrate that (1) a specific category of crime victims is receiving sufficient amounts of financial assistance from the State or other funding sources, (2) a smaller

amount of financial assistance, or not assistance, is needed from the VOCA victims' assistance grant program, and (3) crime rates for that category of crime victims have diminished, warranting a lesser amount of VOCA funds to be allocated. If states cannot satisfy these conditions, then they must meet the 10 percent requirement for priority and underserved crime victims. This flexibility is offered to States who may be experiencing an influx of funds designated for specific categories of crime victims during a grant period or who may be fortunate in that some types of crimes are very low in their State.

### **Crime Victims' Compensation Formula Grants**

**16.576**

AUTHORIZATION: Victim Compensation and Assistance Act, as amended, 42 USC 10601-10607; Victims of Child Abuse Act, as amended, 42 USC §13001, et seq.

OBJECTIVE: In addition to the direct benefit derived by victims from the program, it is expected to stimulate State participation and support for victims' programs and promote victim cooperation with law enforcement.

USES AND USE RESTRICTIONS: States must have a crime victims' compensation program which meets particular statutory criteria.

Federal funds may not be used to start up a State victims' compensation program.

Beginning with the FFY 1995, VOCA victims' assistance grant, each State grantee may retain up to, but not more than, 5 percent of each year's grant for administering the VOCA crime victims' assistance grant program.

ASSISTANCE CONSIDERATIONS: Forty-eight-and-a-half percent of the first \$100M deposited into the Crime Victims' Fund will be used to support State crime victims' compensation award programs. If collections of funds exceed \$100M, the next \$5.5M is available for awards under the Children's Justice Act. The next \$4.5M up to \$110M is available for victims' assistance awards. In addition, 48.5 percent of monies deposited in the fund over \$110M, and up to \$150M for Fiscal Years 1992 through 1994, will also be available for victims' compensation awards.

Funds permitting, State compensation programs will receive 40 percent of their prior year's victims' compensation awards less any compensation for property damage.

States, in order to receive VOCA compensation awards, are required to compensate resident and non-resident victims of crimes committed within their borders or victims of crimes committed on Federal installations and Indian reservations within their borders in the same manner as the State would compensate its own citizens for crimes committed in its jurisdiction. In addition, State crime victims' compensation programs must provide compensation to residents of the State who are victims of crimes occurring outside the State if: (a) the crimes would be compensable crimes had they occurred inside their State; (b) the places the crime occurred in are States not having eligible crime victims's compensation programs; and (c) States must offer compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence, except pursuant to rules to prevent unjust enrichment of the offender, on the same basis as compensation is offered to other victims of crime.

OTHER: State Implementation: Eligible beneficiaries are: Any member of the general public who has been a victim of a compensable crime or who are survivors of victims of a compensable crime. Compensation will be offered for medical expenses, mental health counseling, lost wages, funeral expenses of the victim, and eyeglasses or other corrective lenses, dental services and devices, and prosthetic devices. Restitution payments are not considered program income. Refunds, subrogation, and restitution (RSRs) are reductions to total State payments. (Refer to the "Applicable Credits" section in OMB Circular A-87.)

OBLIGATION OF FUNDS: Monies awarded are available for obligation during the fiscal year of the award and the next succeeding fiscal year.

Funds not obligated during the fiscal year of award and the next succeeding fiscal year will be returned to the general fund of the Treasury.

## **Crime Victims' Federal Program Discretionary Grants**

### **16.582**

AUTHORIZATION: Victim Compensation and Assistance Act, as amended, 42 USC §§10601-10607; Victims of Child Abuse Act, as amended, 42 USC §13001, et seq.

OBJECTIVE: Approximately 3 percent of the Victims of Crime Act (VOCA) funds are designated for services for victims of Federal crime and national scope training and technical assistance efforts. Though direct services for victims of Federal crime is a priority, up to one-half may be spent on training and technical assistance efforts that improve the response to crime victims.

#### USES AND USE RESTRICTIONS:

##### **Services to Victims of Federal Crime**

The Federal Crime Victims' portion can be used to support direct services for victims of Federal crime, training for Federal law enforcement personnel who come into contact with victims, and the preparation of information and materials regarding services to victims of Federal crimes. Congressional intent was to improve the treatment of Federal victims of crime throughout the criminal justice process and to expand the availability and improve the quality of victims' assistance and services. It appears to be that Congress' view that the most effective approach for achieving this goal is to use the victims' assistance programs in the states that are eligible for funding under the "Victims Act." For this reason, emphasis has been placed on developing services in areas where services are either scarce or do not exist. For example, in remote areas of Indian Country, the services available to citizens in more urban areas are not available to victims of Federal crime residing in these remote areas. The development of services for victims of crime in Indian Country has had the highest priority for the past three years. The following activities would be appropriate uses of the Federal Crime Victims Program funds:

1. Maintenance of victim's coordinator positions in the United States Attorney's Offices and other Federal law enforcement agencies.
2. Training for the Victim/Witness Coordinators, Assistant United States Attorneys, Bureau of Prisons officials, parole and probation officers, and other Federal law enforcement personnel in providing services to victims and working with other service providers.
3. Preparing, publishing, and disseminating handbooks for use by the Victim/Witness Coordinators, Assistant United States Attorneys, DEA agents, and other Federal law enforcement officials.
4. Preparing, publishing, and disseminating pamphlets to victims advising them of available services from the Federal government and other service providers.
5. Paying for examinations of sexual assault victims on Federal property to obtain evidence of crime.
6. Paying travel and other liaison costs for coordinating with local service providers and law enforcement agencies.
7. Maintaining on-call services and information systems to apprise victims of appropriate court proceedings.
8. Contracting for services to victims such as transportation to court, short-term child care services, temporary housing in emergencies (e.g., arson on an Indian reservation), emergency counseling, or crisis intervention services.

## **Training and Technical Assistance**

Not more than one half may be used to provide training and technical assistance support to eligible crime victims' assistance programs on a national scope basis. The aim of this effort is to improve services to victims of crime nation-wide and to develop coordinated responses and interagency cooperation in victims programming.

### **Children's Justice Act**

**16.583**

#### **Discretionary Awards for Native American Indian Tribes**

**AUTHORIZATION:** Victim Compensation and Assistance Act, Sections 1402, as amended, 42 USC §10601.

**OBJECTIVES:** Fifteen percent of the funds from the Crime Victims' Fund that are transferred to the Department of Health and Human Services as part of the Children's Justice Act are to be statutorily reserved by the Office for Victims of Crime to make awards for assisting Native American Indian tribes in developing, establishing, and operating programs designed to improve the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim and improves the investigation and prosecution of cases of child abuse.

**USES AND USE RESTRICTIONS:** Funds are only available to Federally-recognized Native American Indian tribes.

## **CIVIL RIGHTS DIVISION**

### **Office of Special Counsel for Immigration Related Unfair Employment Practices**

**16.110**

**AUTHORIZATION:** Section 102 of the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99-603, Public Law 101-649, 8 USC §1324b.

**OBJECTIVES:** The purpose of these grants is to reduce immigration related unfair employment practices through public education programs about the rights afforded potential victims of employment discrimination and the responsibilities of employers under the antidiscrimination provision of the Immigration and Naturalization Service (INS).

**USES AND RESTRICTIONS:** Discretionary funds are available to private non-profit agencies and organizations, such as local, regional, or national ethnic and immigrants' rights advocacy groups, professional or other entities which provide information and education services to potential victims of discrimination, and/or employers. Funds are not available to individuals or public entities, including State and local government agencies and public educational institutions.

Grants are awarded directly to applicants.

Applicants must meet the guidelines established by the Special Counsel as published in the Federal Register.

There is no statutory requirement for matching funds. However, cash or in-kind matches are encouraged.

Awards are generally made for a 12-month period.

Subsequent awards may be made to continue a project

## **Americans with Disabilities Act Technical Assistance Grant Program**

### **16.570**

AUTHORIZATION: The Americans with Disabilities Act of 1990, (ADA), Title V, Section 506(d), Public Law 101-336, July 26, 1990.

OBJECTIVES: The ADA Technical Assistance Grant Program is a discretionary program designed to supplement the Department's technical assistance efforts. The goal of the Program is to develop and implement cost effective strategies to disseminate information about the responsibilities and rights of entities or individuals under Titles II and III of the ADA. Through this program, the Department works with organizations and individuals representing the varied constituencies affected by the ADA to foster increased understanding of, and voluntary compliance with, the ADA nation-wide.

USES AND USE RESTRICTIONS: Awards are limited to the provision of technical assistance and educational activities, including the development and dissemination of materials, ADA training programs conducted through seminars, conferences, or meetings, and the provision of direct technical assistance. The program may not be used to fund research projects, projects to make specific facilities more assessable, or projects to resolve issues that are outside the scope of the Department's authority.

Applicant eligibility is limited to non-profit organizations (including trade and professional associations or their subsidiaries, organizations representing State and local governments and their employees, other organizations representing entities covered by the ADA, State and local government agencies, and organizations representing persons with disabilities) and individuals.

The target audiences of funded projects will include State and local governments, businesses and non-profit organizations operating public accommodations and commercial facilities, and individuals with disabilities.

ASSISTANCE CONSIDERATIONS: Length of awards will generally be 12 months from the date of the grant award. Funding priorities are determined yearly by the Department and announced in the solicitation published in the Federal Register.

## **DRUG COURT DISCRETIONARY GRANT PROGRAM**

### **16.585**

AUTHORIZATION: Violent Crime Control and Law Enforcement Act of 1994, Title V, Public Law 103-322, 42 USC §§3796ii-3796ii-8, Omnibus Crime Control and Safe Streets Act.

OBJECTIVES: To implement drug court programs which combine intensive probationary supervision and mandatory drug testing and treatment as an alternative punishment for young, non-violent drug offenders.

USE AND USE RESTRICTIONS: Violent offenders may not participate in programs funded under this section. A violent offender is a person who is charged with or convicted of an offense during the course of which the person carried, possessed, or used a firearm or dangerous weapon, a death or seriously bodily injury to any person occurred, there occurred the use of force against a person, or the person has one or more prior convictions for a felony crime of violence.

The Federal share of a grant under this section may not exceed 75 percent of the total costs of the program for the fiscal year, unless the Attorney General waives, wholly or in part, the requirement of a cash match contribution.

## **CORRECTIONS PROGRAM**

### **16.586**

#### **Truth in Sentencing Incentive Grants**

AUTHORIZATION: Violent Crime Control and Law Enforcement Act of 1994, codified as 42 USC §§13701-13702.

**OBJECTIVES:** The purpose of these grants is to ensure that prison space is available for the confinement of violent offenders and to implement truth in sentencing laws for sentencing violent offenders.

**USES AND USE RESTRICTIONS:** Eligible recipients are States or States organized as multi-State compacts.

All applicants must satisfy the requirements set out in Sections 13701(b) and 13702(a)(1) or (2). Applicants should reference the guidelines (59 FR 63015) or contact the Corrections Program Office for additional information.

Fifty percent of the total amount of funds appropriated to carry out this part for each of the Fiscal Years 1995 through 2000 shall be made available for Truth in Sentencing Incentive Grants.

The formula allocation for each eligible State is the ratio that the number of Part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of Part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

### **Violent Offender Incarceration Grants**

**AUTHORIZATION:** Violent Crime Control and Law Enforcement Act of 1994, codified as 42 USC §13701, §13703.

**OBJECTIVES:** The purpose of these grants is to construct, develop, expand, modify, operate, or improve correction facilities, including boot camp facilities and other alternative correctional facilities, in order to free conventional prison space for the confinement of violent offenders, to ensure that prison cell space is available for the confinement of violent offenders, and to implement truth in sentencing laws for sentencing violent offenders.

**USES AND USE RESTRICTIONS:** Eligible recipients are States or States organized as multi-State compacts.

All applicants must satisfy the requirements set out in Section 13701(b). Applicants should reference the guidelines (59 FR 63015) or contact the Corrections Program Office for additional information.

Fifty percent of the total amount of funds appropriated to carry out this part for each of the Fiscal Years 1995 through 2000 shall be made available for Violent Offender Incarceration Grants.

Eighty-five percent of available funds will be disbursed through a formula allocation with .25 percent allocated to each eligible State except that for the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated .05 percent. The amount remaining will be allocated to each eligible State in the ratio that the number of Part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of Part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

Fifteen percent of available funds shall be allocated at the discretion of the Attorney General to States that have demonstrated the greatest need for such grants and the ability to best utilize the funds to meet the objectives of the grant program and ensure that prison cell space is available for the confinement of violent offenders.

The Federal share of a Truth in Sentencing or Violent Offender Incarceration grant may not exceed 75 percent of the costs of a proposal described in an approved application. The recipient share should be a cash match.

## **VIOLENCE AGAINST WOMEN GRANTS OFFICE**

### **Violence Against Women Discretionary Grants for Indian Tribal Governments 16.587**

**AUTHORIZATION:** Violent Crime Control and Law Enforcement Act of 1994, codified at Sections 2001-6, 42 USC §3796gg-gg5 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

**OBJECTIVES:** To assist Indian tribal governments to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women and to develop and strengthen victim services in cases involving crimes against women.

**USES AND USE RESTRICTIONS:** To complement and enhance the Law Enforcement and Prosecution Formula Grants to Reduce Violent Crimes Against Women. An Indian tribal government shall not be entitled to funds under this program unless it (or another governmental entity) incurs the full out of pocket costs of forensic medical examinations for victims of sexual assault. An Indian tribal government shall not be entitled to funds under this program unless it: (1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender or the costs associated with the issuance or service of a warrant, protection order, and/or witness subpoena; or (2) assures that its laws, policies, and practices will be in compliance with this requirement by September 13, 1996. Grants shall provide personnel, training, technical assistance, data collection and other equipment for the most widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women. Applicant Indian tribal governments that have law enforcement authority must certify that a minimum of 25 percent of the total grant award (75 percent total) will be allocated to each of the following areas: prosecution, law enforcement, and victim services. The requirement to allocate 25 percent to law enforcement and 25 percent to prosecution does not apply to Indian tribal governments that do not have law enforcement authority.

**Formula and Matching Requirements:** A grant made to an Indian tribal government under this program may not exceed 75 percent of the total cost of the projects described in the application. Applicants should identify the source of matching funds and submit a budget which includes the matching share and source of matching contribution. An Indian tribal government may satisfy this 25 percent match through in-kind services. However, a cash match is encouraged. Indian tribal governments may meet the 25 percent matching requirement for this program by using funds appropriated by Congress for the activities of any agency of an Indian tribal government or for the activities of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands. All funds designated as match are restricted to the same uses as the Violence Against Women Program funds and must be expended within the grant period.

### **Violence Against Women Formula Grants 16.588**

**AUTHORIZATION:** Violent Crime Control and Law Enforcement Act of 1994, codified at Sections 2001-6, 42 USC §3796gg-gg5 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

**OBJECTIVES:** To assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women and to develop and strengthen victim services in cases involving crimes against women.

**USES AND USE RESTRICTIONS:** A State, Indian tribal government, or unit of local government shall not be entitled to funds under this program unless the State, Indian tribal government, or another governmental entity incurs the full out of pocket costs of forensic medical examinations for victims of sexual assault. Further, a State shall not be entitled to funds under this program unless it: (1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, and/or witness subpoena; or (2) assures that its laws, policies, and practices will be in compliance with this requirement by the date on which the next session of the State legislature meets or September 13, 1996,

whichever is later. Funds withheld from a State or unit of local government because it does not meet this requirement shall be distributed to the States or local units of government pro rata. Funds withheld from an Indian tribal government for this reason shall be distributed to other Indian tribal governments pro rata. Grants shall provide personnel, training, technical assistance, data collection, and other equipment for the most widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women. States must certify that a minimum of 25 percent of the total grant award (75 percent total) will be allocated to each of the following areas: prosecution, law enforcement, and victim services.

**Formula and Matching Requirements:** The Federal share of these grants may not exceed 75 percent of the total cost of the projects described in the application. States may satisfy this 25 percent match through in-kind services. However, a cash match is encouraged. Indian tribes that are subrecipients of a State under this program may meet the 25 percent matching requirement for this program by using funds appropriated by Congress for the activities of any agency of an Indian tribal government or for the activities of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands. All funds designated as match are restricted to the same uses as the Violence Against Women Program funds and must be expended within the grant period.

## **EXECUTIVE OFFICE OF WEED AND SEED**

### **16.595**

**AUTHORITY:** Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriation Act, 1995, Public Law No. 103-317, 108 Stat. 26 (1994).

**OBJECTIVE:** Funds the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities.

**USES AND RESTRICTIONS:** Funds are available for intergovernmental agreements, including grants, cooperative agreements, and contracts with State and local law enforcement agencies.

Funds may also be used to reimburse or transfer to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy.



## NOTES

## NOTES

### Chapter 3: Glossary of Terms

**Administrative requirements** are set forth at 28 CFR Part 66 for State and local units of government and 28 CFR Part 70 for non-governmental organizations.

**Awards** may include funding mechanisms, such as grants, cooperative agreements, interagency agreements, contracts, and/or other agreements.

**Awarding agency** means the Federal government or the next higher authority, i.e., the State agency administering the formula award or the Federal agency administering the discretionary award. Exception: \$100K sole source requirement.

**Block/formula awards** are awarded to the States to provide assistance to State and local units of government for programs in accordance with legislative requirements.

**CFR** is the Code of Federal Regulations. The Department of Justice publishes its regulations in Title 28 of the CFR.

**Closeout** is a process in which the awarding agency determines that all applicable administrative actions and all required work of the award have been completed by the recipient and the awarding agency.

**Cognizant Federal agency** is the Federal agency that generally provides the most Federal financial assistance to the recipient of funds. Cognizance is assigned by the Office of Management and Budget (OMB). Cognizant agency assignments for the largest cities and counties are published in the *Federal Register*. The most recent publication was dated January 6, 1986.

**Cooperative agreements** are awarded to States, units of local government or private organizations at the discretion of the awarding agency. Cooperative agreements are utilized when substantial involvement is anticipated between the awarding agency and the recipient during performance of the contemplated activity.

**Contracts** are entered into by the awarding agency, recipients or subrecipients, and commercial (profit-making) and non-profit organizations. With the exception of a few justified sole source situations, contracts are awarded via competitive processes to procure a good or service.

**Domestic travel** includes travel within and between Canada and the United States and its territories and possessions.

**Discretionary awards** are made to States, units of local government, or private organizations at the discretion of the awarding agency. Most discretionary awards are competitive in nature in that there are limited funds available and a large number of potential recipients.

**Equipment** is tangible non-expendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A recipient/subrecipient may use its own definition of equipment provided that such definition would at least include all equipment defined above.

**Foreign travel** includes any travel outside of Canada and the United States and its territories and possessions.

**Grants** are awarded to States, units of local government, or private organizations at the discretion of the awarding agency or on the basis of a formula. Grants are used to support a public purpose.

**High risk** is a determination made by the awarding agency of a recipient's ability to financially administer Federal project funds. Additional reporting requirements are imposed on high risk recipients.

**Interagency agreements** and purchase of service arrangements are usually entered into by two governmental units or agencies. Such funding arrangements are negotiated by the entities involved.

**Match** is the recipient share of the project costs. Match may either be "in-kind" or "cash." In-kind match includes the value of donated services. Cash match includes actual cash spent by the recipient.

**Non-expendable personal property** includes tangible personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A recipient may use its own definition of non-expendable personal property provided that the definition would at least include all tangible personal property as defined below.

**Obligation** means a legal liability to pay under a grant, subgrant, and/or contract determinable sums for services or goods incurred during the award period.

**Pass-through** is an obligation on the part of the States to make funds available to units of local governments, combinations of local units, or other specified groups or organizations.

**Personal property** means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence, such as patents, inventions, and copyrights).

**Preagreement costs** are defined as those costs which are considered necessary to the project but occur prior to the starting date of the award period.

**Prior approval** means written approval by the authorized official (the next higher authority except for sole source) evidencing consent prior to a budgetary or programmatic change in the award.

**Program income** means gross income earned by the recipient, during the funding period, as a direct result of the award. Direct result is defined as a specific act or set of activities that are directly attributable to grant funds and which are directly related to the goals and objectives of the project. Determinations of "direct result" will be made by the awarding agency for discretionary grants and by the State for block/formula subawards.

**Purchase of Evidence (P/E)** is the purchase of evidence and/or contraband, such as narcotics and dangerous drugs, firearms, stolen property, counterfeit tax stamps, etc., required to determine the existence of a crime or to establish the identity of a participant in a crime.

**Purchase of Services (P/S)** includes travel or transportation of a non-Federal officer or an informant; the lease of an apartment, business front, luxury-type automobiles, aircraft or boat, or similar effects to create or establish the appearance of affluence; and/or meals, beverages, entertainment, and similar expenses (including buy money and flash rolls, etc.) for undercover purposes, within reasonable limits.

**Purchase of Specific Information (P/I)** includes the payment of monies to an informant for specific information. All other informant expenses would be classified under P/S and charged accordingly.

**Real property** means land, land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

**Recipient** means an individual and/or organization that receives Federal financial assistance directly from the Federal agency.

**Subrecipient** means an individual and/or organization that receives Federal financial assistance from the direct recipient of Federal funds. This may include entities receiving funds as a result of block or formula awards.

**Supplanting** means to deliberately reduce State or local funds because of the existence of Federal funds. An example would be: When State funds are appropriated for a stated purpose and Federal funds are awarded for that same purpose, the State replaces its State funds with Federal funds, thereby reducing the total amount available for the stated purpose.

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